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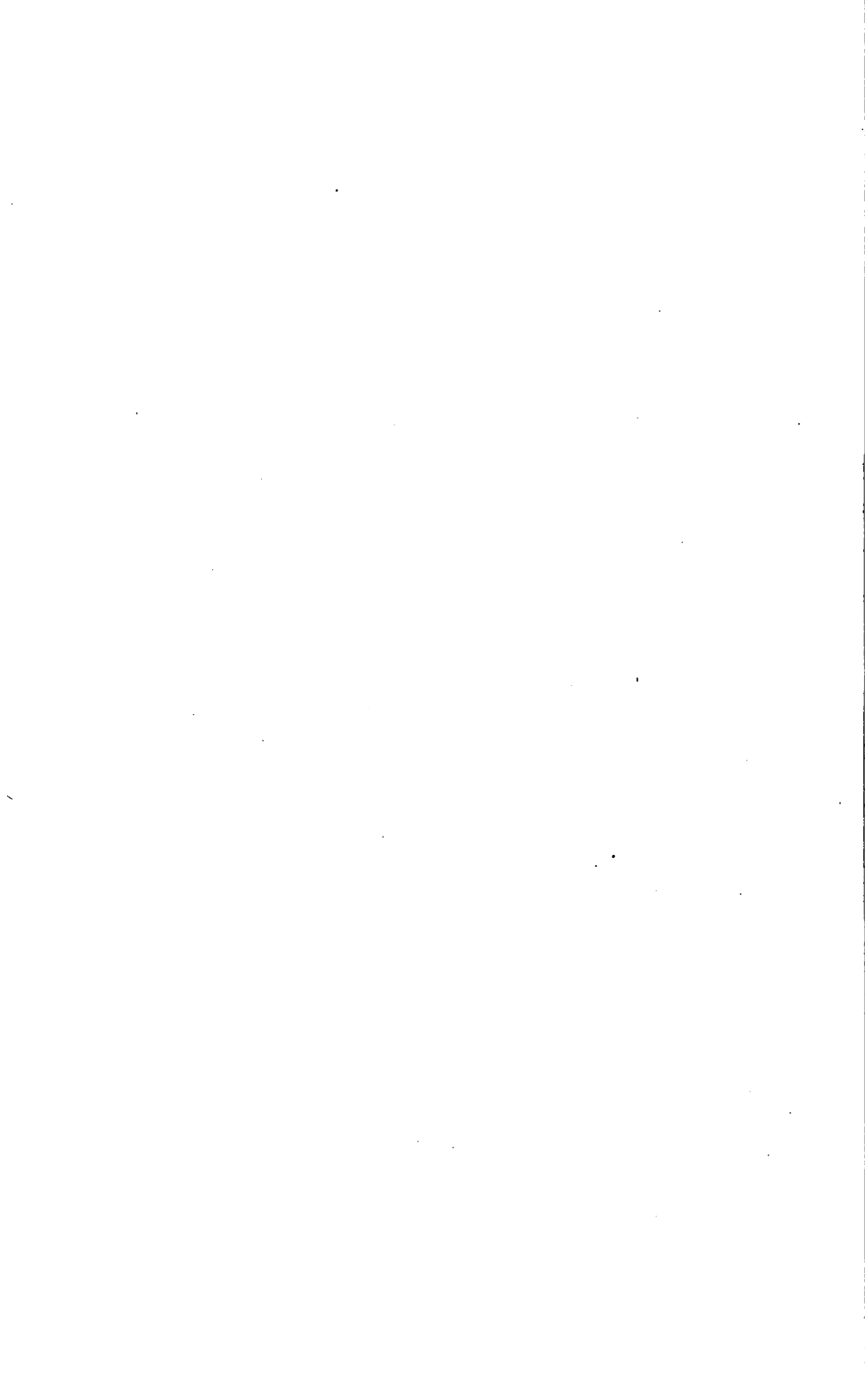
CORPORATION LAWS

STATE OF MISSOURI

1899



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Missouri, laws, statutes, state corporation laws
OF
THE
CORPORATION LAWS

OF THE
STATE OF MISSOURI,

REVISED STATUTES OF 1899,

AND

CLASSIFIED ANNOTATION.

Compiled by
A. A. LESUEUR,
Secretary of State.



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CLASSIFIED ANNOTATION.

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CORPORATION LAWS OF MISSOURI.

CONSTITUTION OF 1875.

ARTICLE II.

BILL OF RIGHTS.

* * * *

SEC. 8. Religious corporation not to be established.—

That no religious corporation can be established in this state, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries. (a)

[Const. 1865 limited quantity of land to five acres in country and one acre elsewhere. Art. I, Sec. 12.]

* * * *

SEC. 15. *Ex post facto* laws, etc., prohibited.—That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the general assembly. (b)

[The clauses "or making any irrevocable grant of special privileges or immunities," and "by the general assembly," are new.]

* * * *

SEC. 20. Property not to be taken for private use—public use a judicial question.—That no private property can be taken for private use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except

(a) There shall be no religious incorporation except to hold land for church purposes. 82 Mo. 418; 11 M. A. 556; 27 M. A. 633; 97 Mo. 196.

(b) *Ex post facto* laws—term defined. 66 Mo. 545; 141 Mo. 408. Legislature cannot pass a law impairing the obligation of contracts. 9 Mo. 389; 50 Mo. 129; 78 Mo. 183; 88 Mo. 282. May change the remedy if the change does not impair the right. 91 Mo. 452; 8 A. 125. Cannot divest vested rights. 66 Mo. 328. Explanatory legislation cannot retroact so as to impair vested rights. 46 Mo. 376. A law affecting only contracts made after its passage is not within this prohibition. 136 Mo. 382. Incumbent has no vested right in office created by legislature. 44 Mo. 129; 46 Mo. 322; 47 Mo. 220. Retrospective laws—term defined. 66 Mo. 545. What retrospective laws may be passed. 115 Mo. 199. Statutes should be prospectively construed unless an opposite intent plainly appears. 78 Mo. 188; 79 Mo. 113; 115 Mo. 184; 133 Mo. 100; 63 A. 52; 74 A. 486.

for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public. (c)

[New section.]

SEC. 21. Property for public use—compensation.—That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken. (p)

[New except substance of first sentence. Const. 1865, Art. I, Sec. 16.]

* * * *

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

* * * *

SEC. 45. State's credit not to be loaned.—The general assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the state in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the state in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever. (m)

[Const. 1865, Art. XI, Sec. 13, modified.]

SEC. 46. Public money, grant of prohibited.—The general assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, that this shall not be so construed as to prevent the grant of aid in a case of public calamity. (n)

[New section.]

SEC. 47. Municipalities, loaning credit of.—The general assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the state now existing, or that may be hereafter established, to lend its credit,

(c) 120 Mo. 226; 103 Mo. 477; 97 Mo. 196; 82 Mo. 418; 11 A. 566; 27 A. 633.

(p) Act must afford remedy. 25 Mo. 277; 116 Mo. 527. Only absolute necessity will justify taking. 47 Mo. 474. Notice. 87 Mo. 203. What is public use. 58 Mo. 175; 48 Mo. 243.

(m) 85 Mo. 41; 37 Mo. 135; 55 Mo. 497.

(n) 123 Mo. 424; 85 Mo. 41; 142 Mo. 575; 143 Mo. 287.

or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company: *Provided*, that this shall not be so construed as to prohibit the general assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department—said fund to be taken from the municipal revenue of such cities, villages or incorporated towns. (o)

[Const. 1865, Art. 11, Sec. 14, modified. Proviso adopted 1892.]

* * *

SEC. 49. State subscriptions prohibited.—The general assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the state.

[Const. 1865, Art. 11, Sec. 13.]

* * *

SEC. 51. Corporation debts, release prohibited.—The general assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this state, or to any county or other municipal corporation therein.

[New section.]

ARTICLE X.

REVENUE AND TAXATION.

* * *

SEC. 21. Corporations—fees to be paid when incorporated.—No corporation, company or association other than those formed for benevolent, religious, scientific or educational purposes, shall be created or organized under the laws of this state, unless the persons named as corporators shall, at or before the filing of the articles of association or incorporation, pay into the state treasury fifty dollars for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, that nothing contained in this section shall be construed to prohibit the general assembly from levying a further tax on the franchises of such corporation. (u)

[New section.]

(o) Legislature cannot authorize townships to subscribe to stock of railroad companies. 67 Mo. 353; 85 Mo. 41; 107 Mo. 464; 58 Mo. 175; 57 Mo. 178; 55 Mo. 497; 44 Mo. 504; 51 Mo. 483, 522. Does not apply where town loans its credit for public school purposes. 144 Mo. 275, 283.

(u) Legislature cannot exempt building associations from incorporation tax. 95 Mo. 193. Educational corporation exempt. 99 Mo. 552; 30 A. 285; 61 A. 407.

ARTICLE XII.

CORPORATIONS.

SEC. 1. Existing charters or grants without validity, when.—All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith, at the adoption of this constitution, shall thereafter have no validity.

[New section.]

SEC. 2. Not to be created by special laws.—No corporation, after the adoption of this constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the state. (d)

[See Const. 1865, Art. 7, Sec. 4.]

SEC. 3. Legislature not to remit forfeited charters.—The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporation.

[New section.]

SEC. 4. Eminent domain, right of state in corporation property—trial.—The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right. (e)

[New section.]

SEC. 5. Police power of the state.—The exercise of the police power of the state shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the state. (f)

[New section.]

SEC. 6. Shareholders, number of votes in election of directors.—In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may

(d) 123 Mo. 56.

(e) 125 Mo. 82. Trial by jury. 96 Mo. 611; 103 Mo. 634; 106 Mo. 458, 557; 113 Mo. 132, 390; 118 Mo. 599; 117 Mo. 138; 119 Mo. 357; 120 Mo. 389; 128 Mo. 75, 272. Condemnation—private property—judicial proceeding. 110 Mo. 147, 345; 15 A. 152.

(f) 121 Mo. 298.

cast the whole number of votes, either in person or by proxy for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner. (g)

[New section.]

SEC. 7. Corporation — business limited by charter—power to hold real estate.—No corporation shall engage in business other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business. (h)

[New section.]

SEC. 8. Stock and bonded debt, how issued or increased. No corporation shall issue stock or bonds, except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be provided by law. (i)

[New section.]

SEC. 9. Stockholders, extent of liability.—Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her. (j)

[Const. 1865, Art. VII, Sec. 6. Stockholder liable for double amount of his stock.]

SEC. 10. Preferred stock, how issued.—No corporation shall issue preferred stock without the consent of all the stockholders.

[New section.]

SEC. 11. Corporation defined.—The term *corporation*, as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships. (k)

[New section.]

RAILROADS.

SEC. 12. Discrimination prohibited — commutation tickets.—It shall not be lawful in this state for any railway company to charge for freight or passengers a greater amount, for the transportation of the same, for a less distance than the amount charged for any greater distance; and suitable laws shall be passed by the general assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates. (l)

[New section.]

(g) 52 A. 430; 64 A. 225; 78 Mo. 188.

(h) 119 Mo. 9; 125 Mo. 43; 144 Mo. 562; 48 Mo. 37.

(i) 86 Mo. 239; 97 Mo. 617. Labor done on property received. 131 Mo. 620; 113 Mo. 330; 118 Mo. 238. Fictitious stock. 143 Mo. 109.

(j) 65 Mo. 208; 10 A. 499; 8 A. 424.

(k) 128 Mo. 75.

(l) 83 Mo. 454; 94 Mo. 453; 38 A. 191; 101 Mo. 247.

SEC. 13. May construct and operate, connect and intersect other lines—freight.—Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination. (m)

[New section.]

SEC. 14. Railways public highways—laws against extortion, etc.—Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and railroad companies common carriers. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties. (n)

[New section.]

SEC. 15. Shall have public office, keep books—meetings of directors.—Every railroad or other corporation, organized or doing business in this state under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this state, public notice of which shall be given thirty days previously, and shall report annually under oath, to the state auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The general assembly shall pass laws enforcing, by suitable penalties, the provisions of this section. (o)

[New section.]

SEC. 16. Property subject to execution—no law to be passed exempting.—The rolling stock and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals; and the general assembly shall pass no law exempting any such property from execution and sale. (p)

[New section.]

(m) 97 Mo. 457; 109 Mo. 187; 111 Mo. 666; 118 Mo. 599; 15 A. 152.

(n) 83 Mo. 454; 110 Mo. 286; 116 Mo. 81; 137 Mo. 529. Railroads, public highways. 110 Mo. 272; 122 Mo. 375. Taxation of railroad property for street purposes, 123 Mo. 546.

(o) 128 Mo. 75.

(p) Mechanics' lien—enforcement—rolling stock. 74 Mo. 374.

SEC. 17. Shall not consolidate with parallel lines.—No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues. (q)

[New section.]

SEC. 18. Consolidation with foreign companies.—If any railroad company organized under the laws of this state shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other state, or of the United States, the same shall not thereby become a foreign corporation; but the courts of this state shall retain jurisdiction in all matters which may arise, as if said consolidation had not taken place. In no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

[New section.]

SEC. 19. Laws retrospective or in aid of corporations forbidden.—The general assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already past.

[New section.]

SEC. 20. Street railroad, franchise, how granted.—No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained. (r)

[New section.]

SEC. 21. Railroad corporation, benefit of future legislation.—No railroad corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this constitution applicable to railroads.

[New section.]

SEC. 22. Officer of railroad not to be interested in business.—No president, director, officer, agent or employe of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

[New section.]

(q) 135 Mo. 230.

(r) 111 Mo. 666; 130 Mo. 10.

SEC. 23. Discrimination between companies and individuals.—No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad company or any lessee, manager or employe thereof, shall make any preference in furnishing cars or motive power. (s)

[New section.]

SEC. 24. Free passes, granting to state officers, forfeiture.—No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the general assembly, or members of the board of equalization, or any state, or county, or municipal officers; and the acceptance of such pass or ticket, by a member of the general assembly, or any such officer, shall be a forfeiture of his office.

[New section.]

BANKS.

SEC. 25. State banks and state owning stock in corporations forbidden.—No state bank shall hereafter be created, nor shall the state own or be liable for any stock in any corporation, or joint stock company, or association for banking purposes, now created or hereafter to be created.

[See Const. 1865, Art. 8, Secs. 1 and 2.]

SEC. 26. Act creating banks to be submitted to the people.—No act of the general assembly authorizing or creating corporations or associations with banking powers (except banks of deposit or discount), nor amendments thereto, shall go into effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the state, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election. (t)

[See Const. 1865, Art. 8, Secs. 1 and 2.]

SEC. 27. Banks, insolvent, not to receive deposits.—It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager, cashier or other officer of any banking institution, to assent to the reception of deposits, or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent, or in failing circumstances; and any such officer, agent or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent. (u)

[New section.]

(s) City ordinance requiring street railroads to make quarterly reports of number of passengers carried is valid. 14 A. 221. Carriers may charge less than published rates, provided they make no discrimination between shippers. 94 Mo. 453. Railroads cannot grant exclusive or peculiar privileges in the carriage of passengers to and from its depots. 101 Mo. 247.

(t) 126 Mo. 43; 144 Mo. 562.

(u) 126 Mo. 43; 131 Mo. 464. Prohibitory clause self enforcing. 83 Mo. 488. Private banks. 120 Mo. 479; 13 A. 108.

CHAPTER 12.

CORPORATIONS, PRIVATE.

ARTICLE I—Organization, general powers, duties and liabilities, with incidental matters of practice.

- II—Railroad companies.
- III—Street railroads.
- IV—Railroads—classification—charges—commissioners.
- V—Macadamized, graded and plank-road companies.
- VI—Telegraph and telephone companies.
- VII—Appropriation and valuation of lands taken for telegraph, telephone, graded and plank or railroad purposes.
- VIII—Banks of deposit and discount.
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- X—Mutual saving fund, building and loan associations.
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- XII—Trust companies.
- XIII—Savings and safe deposit institutions.
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ARTICLE I.

ORGANIZATION, GENERAL POWERS, DUTIES AND LIABILITIES, WITH INCIDENTAL MATTERS OF PRACTICE.

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Sec. 943. Corporation, term defined.—The term “corporation,” as used in this chapter, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships. (R. S. 1889, § 2480—a.)

Sec. 944. First meeting, how called.—The first meeting of all corporations shall, unless otherwise provided for in their acts of incorporation, be called by a notice, signed by some one or more of the persons named as incorporators in the act of incorporation, and setting forth the time, place and purposes of the meeting, and such notice shall, seven days at least before the meeting, be delivered to each

(a) “Associations of individuals,” generally synonymous with corporation. 118 Mo. 383. See Const. Art. XII, section 11. Corporations are not “citizens” within the meaning of Clause 1, section II, Art IV. of the U. S. Constitution: They are creatures of local law and have not even an absolute right of recognition in other states, depending upon the assent of those states, which may be given upon such terms as they please. 125 U. S. 181; 8 Wall. 168; 94 U. S. 536; 10 Wall. 410.

member, or published in some newspaper in the county where the corporation may be established, or if there be no such newspaper, then in the nearest newspaper.. (R. S. 1889, § 2481—b.)

SEC. 945. Justice of the peace may call meeting, when.

Whenever, for want of sufficient by-laws for the purpose, or of officers duly authorized or from neglect or refusal of such officers, or from other legal impediments, a legal meeting of any corporation cannot otherwise be called, any justice of the peace in the county where it is desirable to hold such meeting, or where such corporation is established, if it be local, may, on a written application of two or more members thereof, issue a warrant to either of said members, directing him to call a meeting of such corporation, by giving such notice as is required in the preceding section. (R. S. 1889, § 2482—c.)

SEC. 946. *Id.* Who may preside.—Whenever any meeting of any corporation shall be called by warrant from a justice of the peace, the person to whom such warrant is directed may call the meeting to order and preside therein until a presiding officer is chosen and qualified, if there be no officer present whose duty it may be to preside. (R. S. 1889, § 2483—d.)

SEC. 947. Meeting of shareholders, how convened—inspectors of election appointed, when—duties of president—two shareholders may act, when—right to vote, how determined—meeting to convene, at what hour.—Every meeting, for whatever object, of the shareholders in any corporation shall be convened by its president and secretary by a notice published for ten days previous to such meeting, where a longer notice is not otherwise by law or its own by-laws required, in a daily or weekly newspaper, published in the place or county in which the corporation is located, or by notice served personally on each shareholder, in writing, setting forth the place and hour and the object of such meeting. If the object of such meeting be to elect directors or to take a vote of the shareholders in such corporation on any proposition in the notice aforesaid, the president, when not otherwise provided by law, shall appoint not less than two shareholders, who are not directors, inspectors to receive and canvass the votes given at such meeting and certify the result to him. At the next meeting of the board of directors, which shall be held within two weeks thereafter, the president shall lay before them the returns so certified, and thereupon such proceedings shall be had as the subject-matter decided by the election, or the vote, may require; and if for directors, the persons who received a majority of the votes cast shall be notified thereof. If the president and secretary fail to call any meeting of the shareholders in any corporation required by law or by the by-laws of such corporation to be held, any two shareholders may call such meeting and appoint inspectors in manner hereinabove provided, notwithstanding such meeting should be held at a later day than had such failure not happened. In all cases where the right to vote upon any share or shares of the stock in

(b) All proceedings of persons professing to act as corporators, assembled beyond the limits of the State are void. 41 Mo. 525. But when organized, directors may hold their meetings and transact business outside of state, unless otherwise prohibited by charter or by-laws. Nat. Bank vs. State Bank. Supreme Court, March 5, 1900. See sections 945, 947 and 1329.

(c) See section 944.

(d) See Const. Art. XII, section 6.

any incorporated company shall be questioned, it shall be the duty of the inspectors to require the transfer books of such corporation as evidence of stock held in such corporation, and all shares that may appear standing thereon in the name of any person or persons shall be voted upon by such person or persons, directly by themselves or by proxy. Persons holding stock as executors, administrators, guardians or trustees, or who have pledged their stock, shall be entitled to vote upon such stock. Every meeting of shareholders in any corporation shall be convened at 9 o'clock a. m., and continue during at least three hours, unless the object for which it was so called be accomplished sooner: *Provided*, that if the object of such meeting be for any other purpose than to hold an election or to take a vote on any proposition, it shall be regulated by the by-laws of the corporation as to the manner of convening it, the time at which it shall be held, and the manner of conducting it; any corporation in which there are but ten or a less number of resident stockholders may regulate by by-law the manner of appointing inspectors, their number, and their qualifications. (R. S. 1889, § 2484—e.)

SEC. 948. Inspectors to take and subscribe oaths.—An inspector, before he shall enter on the duties of his office, shall take and subscribe the following oath before any officer authorized by law to administer oaths: "I do solemnly swear that I will execute the duties of an inspector of the election now to be held with strict impartiality, and according to the best of my ability." (R. S. 1889, § 2485—f.)

SEC. 949. Qualification of voters, how tested — shall not vote, when.—At every election of directors the transfer books of the corporation shall be produced to test the qualifications of the voters, and no person shall be admitted to vote, directly or by proxy, except those in whose names the shares of the stock of the corporation shall stand on such books, and shall have stood for at least thirty days previous to the election. (R. S. 1889, § 2486—g.)

SEC. 950. Prohibited from voting on hypothecated shares.—No person shall be admitted to vote on any shares of stock belonging or hypothecated to the corporation in which the election is held. (R. S. 1889, § 2487—h.)

SEC. 951. If election not held on day appointed, to be held, when.—If any election for directors in any such corporation shall not be held on the day appointed, it shall be the duty of the directors to notify and cause such election to be held within sixty days after the day so appointed; and on the day so notified, no person shall be admitted to vote except those who would have been entitled had the election taken place on the day when it ought to have been held. (R. S. 1889, § 2488—i.)

(e) Acts of body corporate must take place at home office, unless all shareholders give consent. 114 Mo. 218. In order to canvass the vote the inspectors must know how each shareholder voted. 64 A. 225. Canvassers of votes cast at an election of directors may be compelled by mandamus to perform their duty. *Id.* Stockholders may change vote while meeting is in progress. *Id.* Also 37 A. 155; 51 A. 437; 99 Mo. 497; 108 Mo. 606. See sections 944, 949, 950, 958 and 1325.

(f) See Const. Art. XII, section 6.

(g) 108 Mo. 606.

(h) See section 947.

(i) See section 953. 108 Mo. 606.

SEC. 952. Failure to elect directors, effect of.—A failure to elect directors on the day designated by law shall not have the effect of dissolving such incorporated company. (R. S. 1889, § 2489—j.)

SEC. 953. Election of directors, etc.—votes, how cast. In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares of stock so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election, and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute them among two or more candidates; and such directors or managers shall not be elected in any other manner. (R. S. 1889, § 2490—k.)

SEC. 954. Directors to appoint officers—certain officers to keep office, where.—The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws of the company: *Provided*, that the president, treasurer and secretary, or such other officer or officers as perform their duties, of all corporations other than railroad companies, shall have and keep their offices at the general office of the company in this state. (R. S. 1889, § 2491, amended—l.)

SEC. 955. Articles of incorporation, when and where filed—shall be evidence, when.—Whenever any corporation shall be organized under the laws of this state, it shall be the duty of the officers of said corporation to file with the secretary of state a copy of the articles of association or incorporation, and the corporate existence of such corporation shall date from the time of filing said copy of such articles; and a certificate by the secretary of state, under the seal of the state, that said corporation has become duly organized, shall be taken by all courts of this state as evidence of the corporate existence of such corporation; a certified copy of said certificate of the secretary of state shall be filed and recorded in the office of the

(j) 50 A. 648; 2 A. 123.

(k) May change their votes in election of directors, when. 64 A. 225. Right of shareholders to vote in election of directors on the cumulative plan is guaranteed by law, and cannot be taken away by resolution or by-law. 52 A. 430. Also 39 A. 453; 114 Mo. 218; 64 A. 232; 149 Mo. 181; 72 A. 142. See Const. Art. XII, section 6. See sections 950, 1320 and 1325.

(l) President may without special authority form board, perform all acts of ordinary nature, which by usage or necessity are incident to his office. 104 Mo. 531. And when so permitted, such authority may be inferred. 49 A. 280. Officers not entitled to pay for services, except by agreement. 75 A. 457. Power to remove a corporate officer for reasonable and just cause, is one of the common-law incidents of all corporations. 119 Mo. 383. Secretary is not an officer of general power or authority; cannot bind corporation by contract, in absence of evidence of authority or ratification. 64 A. 677. If agents, acting within the scope of their authority, act in a willful and malicious manner, and damage thereby ensue, the corporation is responsible. 55 Mo. 201; 3 A. 589. In absence of anything to the contrary in charter or by-laws a majority of directory will constitute a quorum, and a majority of that quorum can do business of the board. 39 A. 463. Officers must act within the scope of authority to bind the corporation. 38 Mo. 228. But his authority may be implied from the manner in which he has been permitted to transact its business. 104 Mo. 531. Also 39 A. 460; 95 Mo. 467; 139 Mo. 1; 149 Mo. 104, 181; 138 Mo. 576; 70 A. 364; 73 A. 135, 389; 74 A. 579; 75 A. 358; 139 Mo. 627; 75 A. 455; 77 A. 422; 78 A. 463; 79 A. 352; 145 Mo. 418.

recorder of deeds of the county in which the corporation is organized. (R. S. 1889, § 2492—m.)

SEC. 956. In creation and organization, what necessary—increase of capital stock—fees to be paid.—No corporation, company or association other than those formed for benevolent, religious, scientific, fraternal-beneficial or educational purposes, shall be created or organized under the laws of this state, unless the persons named as corporators shall, at or before the filing of the articles of association or incorporation, pay into the state treasury fifty dollars for the first fifty thousand dollars or less of the capital stock of such corporation or association, and a further sum of five dollars for every additional ten thousand dollars of its capital stock; and no increase of the capital stock of any such corporation, company or association shall be valid or effectual until such corporation, company or association shall have paid into the state treasury five dollars for every ten thousand dollars or less of such increase in the capital stock of said corporation or association; and it shall be the duty of said corporation or association to file a duplicate receipt of the state treasurer for the payments herein required to be made, with the secretary of state, as is provided by this article for the filing of articles of incorporation or association. (R. S. 1889, § 2493—n.)

SEC. 957. Directors may open books of subscription, when.—When such articles of association and affidavit are filed in the office of the secretary of state, the directors named in such articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors five per cent. on the whole amount subscribed by him, in money, and no subscription shall be received or taken without such payment. (R. S. 1889, § 2494—o.)

(m) Corporate existence means full authority to transact business; and dates from the filing of articles of association with the Secretary of State. 55 Mo. 310; 71 Mo. 128; 79 Mo. 410; 95 Mo. 110; 18 A. 363; 20 A. 348; 52 A. 60; 95 Mo. 106; 59 A. 267. Lawful existence of corporations acting under color of law cannot be questioned collaterally. 62 Mo. 247. Can only be questioned by quo warranto or other direct proceedings instituted by the state for that purpose. 62 Mo. 247; 66 Mo. 228; 81 Mo. 26; 94 Mo. 560. Corporate franchises, when forfeited by acts of officers. 76 A. 439. See Const. Art. X, section 21. Also 84 Mo. 202; 11 A. 65; 72 Mo. 461. See sections 958, 1313 and 1314.

(n) Corporation whose leading purpose is to make money cannot be made benevolent institution by legislative enactment. 95 Mo. 193. New corporation into which old one is merged assumes all liabilities of old corporation. 61 Mo. 176; 79 Mo. 182; 39 A. 574; 127 Mo. 356; 95 Mo. 196.

(o) A stockholder, whether an original subscriber or a purchaser, is liable for unpaid stock. 94 Mo. 410. Person who signs, unconditionally, articles of association, with a number of shares opposite his name, thereby agrees to take shares and pay persons named as managers fifty per cent. thereof, as soon as organized and before articles shall be recorded. 28 A. 55. Subscription for shares of stock makes subscriber a stockholder, though he fails to meet subsequent calls thereon. 46 Mo. 248. Where one subscribed to stock of corporation on faith of an agreement with a previous stockholder that he would not be required to pay subscription unless road should be completed, this agreement was void, and subscriber is liable for the full amount subscribed. 29 Mo. 64. It is not the subscribing of capital stock merely, but the payment of same which constitutes furnishing capital. 27 Mo. 365. Subscription to capital stock constitutes a contract not only between subscriber and corporation,

SEC. 958. Amendments to articles of incorporation—construction of act—tax on increase of stock.—All amendments to articles of association of corporations organized under the laws of this state, made and filed in the office of the secretary of state, are and shall be and become a part of the articles of association of the corporation adopting and filing the same; and this section shall not be so construed as to give any corporation whose articles are amended as in this article contemplated, any greater rights than though the subject of the amendments had been incorporated into the original articles of association; and any corporation, company or association which may increase its capital stock under the provisions of this article shall pay the additional amount provided by law for such increase. (R. S. 1889, § 2495—p.)

SEC. 959. Certificate not to issue to corporation, when. No certificate of its incorporation or certificate of its change of corporate name shall be issued by the secretary of state to any company or association: First, under the same corporate name and style as that already assumed by another corporation; nor, second, when the corporate name and style assumed is the name of a person or a firm, unless there be joined thereto some word designating the business to be carried on, followed by the word *company* or *corporation*. (R. S. 1889, § 2496—q.)

SEC. 960. Existing corporations to change name, when. All existing corporations whose corporate name and style is the name of a person or of a firm shall change such corporate name and style to conform to the provisions of the second subdivision of the preceding section, within sixty days after this chapter takes effect, or *ipso facto* their corporate powers shall be forfeited. (R. S. 1889, § 2497—r.)

SEC. 961. Capital stock to be paid, in what manner.—The board of directors, trustees or other body of persons lawfully exercising the corporate powers of any corporation, may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as

but between him and each of the other subscribers, both precedent and subsequent. 44 A. 172. Subscriber to stock is liable on his own subscription when it is made in his own name but upon secret trust for another; or when made as trustee for a corporation which has no power to subscribe for shares. 44 A. 172. Directors have no power to discharge one subscriber and substitute another in his place. *Id.* Also. 24 A. 378; 28 A. 554; 52 A. 194; 90 Mo. 199; 94 Mo. 560; 83 Mo. 243; 17 A. 652.

(p) Acceptance by a corporation of amendments to its charter may be inferred from acts of officers. 40 Mo. 27; 47 Mo. 93. See section 955. See Const. Art X, section 21.

(q) Family name not conjoined with a christian name is not "the name of a person" within the meaning of the statute, which makes the word "company" or "corporation" an essential part of the name of a corporation; hence the name "Mollinckrodt Chemical Works," does not come within the statutory requirement. 75 Mo. 424. Secretary of State must exercise his discretion in determining whether a company has adopted a name that is same as or in imitation of an existing corporation, and he will not be compelled by mandamus to issue certificate until it appears that the law has been complied with. 92 Mo. 355. Object of the statute is to prevent corporations from conducting business in the names of firms and individuals, thereby misleading the public. 75 Mo. 424. Also, 37 A. 313; 49 A. 345; 92 Mo. 355. See section 1312.

(r) Change of name of corporation does not affect its rights. 22 Mo. 13; 37 A. 318. See section 971.

may be required by the by-laws. If any stockholder shall neglect to pay any installment, as required by a resolution of the board of directors, or persons exercising the corporate powers of such corporation, the directors or other persons exercising such corporate powers may declare his stock and all previous payments forfeited to the use of the company; but no stock shall be forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the postoffice, properly directed to him, at the postoffice nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock, and all previous payments thereon, will be forfeited for the use of the company, which notice may be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made. (R. S. 1889, § 2498—s.)

SEC. 962. Stock and bonds, for what issued—capital stock, how increased—notice.—The stock or bonds of a corporation shall be issued only for money paid, labor done or money or property actually received. Any corporation may increase its capital stock or its bonded indebtedness with the consent of the persons holding the larger amount in value of the stock, which consent to such increase shall be obtained at a meeting of the shareholders, called for that purpose—sixty days' notice of the time and place of such meeting and of the amount of the proposed increase of stock or bonded indebtedness having been given as hereinafter provided; but the shares of stock or bonds arising from such increase shall only be disposed of for money paid, labor done or money or property actually received. All fictitious issues or increase of stock or of bonds of any corporation shall be void: *Provided, however,* that the bonded indebtedness of a corporation shall not be increased so that the entire amount thereof shall exceed the amount of the authorized capital, except that any railroad company may issue its bonds in excess of its capital stock for the purpose of constructing or acquiring another railroad, which shall connect with the railroad of the company issuing such bonds, but the bonds so issued in excess of its capital stock shall not exceed the authorized capital stock of the company whose road is constructed or acquired with the proceeds thereof, and shall be secured by mortgage on the railroad franchises and property constructed or acquired with the proceeds thereof, or by the deposit as collateral security of the first mortgage bonds of the railroad constructed or acquired with the proceeds thereof. But no such bonds shall be issued without first obtaining the consent of the persons holding the larger amount in value of the stock of the company issuing the same, at a meeting called for that purpose, and of which meeting and the object and purpose thereof sixty days' public notice shall be given by advertisement in a daily or weekly newspaper published in the town or city in this state where

(s) In absence of expressed statute to the contrary, liability to pay calls and to respond to creditors in event of insolvency, attaches to holder of legal title to stock; and one who takes stock as collateral security and has same transferred to himself will be liable to creditors. 71 A. 447. Stockholders cannot, by selling without company's consent, to an insolvent, escape from the responsibility to company for unpaid installments upon his stock. 20 Mo. 382; 43 Mo. 452; 17 A. 454; 143 Mo. 109; 76 A. 528; 77 A. 422. See section 984.

the general offices of the company issuing such bonds may be located. (R. S. 1889, § 2499—t.)

SEC. 963. *Id.* Notice, how published.—The notice required by the preceding section shall be published at least once a week in some newspaper in the town, city or county in which said corporation is located, the first insertion to be not less than sixty days, the last to be not less than one nor more than six days, previous to the day on which such meeting shall be held; but if there be no newspaper published therein, then in some newspaper published in the next nearest county, and by posting up a printed hand-bill in the office of said company. (R. S. 1889, § 2500—u.)

SEC. 964. Stock increased, to be certified to secretary of state.—Upon the stock of any corporation being increased, as hereinbefore provided, the date and amount of such increase of stock shall be certified by the proper corporate officers of such corporation to the secretary of state, who shall preserve and record said certificate in his office. (R. S. 1889, § 2501—v.)

SEC. 965. Stock deemed personalty, how transferred. The stock of every company formed under this article shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company; but no shares shall be transferred until all previous calls thereon shall have been fully paid in. (R. S. 1889, § 2502—w.)

SEC. 966. Books to be kept by corporation, shall contain what—shall be open to inspection, when.—Every such corporation shall keep a book in which the transfer of shares of its stock shall be registered, and another book containing the names of its stockholders, which books shall at all times, during the usual hours

(t) Stock may be paid for in money, labor or property of any kind used in the business at a fair valuation; but a fictitious valuation will make shareholder liable to creditor of corporation pro tanto; this rule holds good whether over-valuation is the result of fraud or bad judgment. 131 Mo. 620; 143 Mo. 109; 61 A. 134. Corporate stock may be paid for by subscriber in property at a fair and honest valuation. 118 Mo. 238. Fictitious issue of stock as fully paid up, held to be ultra vires and void. 113 Mo. 330. When increase of capital is based on property to capital already owned, the increase belongs to the then stockholder in proportion to his holding. 127 Mo. 53. Where increased for purpose of selling, old stockholders have prior right to purchase. 127 Mo. 53. See Const. Art. XII, section 8. Also 97 Mo. 627; 113 Mo. 337; 43 A. 497; 51 A. 205; 79 Mo. 24; 84 Mo. 381; 143 Mo. 127; 13 A. 139; 36 A. 288. See sections 1064, 1065 and 1323.

(u) Statement of increase of capital stock must show that meeting was called by public notice published as required by law. The public notice was intended for the public at large while the notices mailed are for the benefit of the stockholders. 86 Mo. 239; 97 Mo. 627.

(v) See Const. Art. XII, section 8.

(w) The only effectual mode of transferring title to shares is by transfer upon books of corporation. 33 Mo. 150. But according to general law governing transfer of property, is good between the parties, though it is not as against the company. 9 Mo. 149; 52 Mo. 377; 118 Mo. 431, 459. Assignment on books of company is sufficient without taking out new certificates in name of assignee. 20 Mo. 382. While certificate of stock is not a negotiable instrument, yet it partakes to a great extent of the qualities of a negotiable security when power of attorney is signed, even in blank. 43 A. 34; 56 A. 145; 148 Mo. 588. As to legal inferences of transfer of stock. 61 Mo. 319; 70 Mo. 262. Equity will protect the claims of the holder of stock irregularly transferred. 72 Mo. 461; 25 A. 643; 29 A. 206, 486; 38 A. 674; 51 A. 198; 71 A. 467; 90 Mo. 522; 92 Mo. 635; 108 Mo. 606; 110 Mo. 83; 123 Mo. 603; 128 Mo. 559; 7 A. 16; 13 A. 197; 71 A. 467; 74 A. 537. See section 966.

of business, for thirty days previous to an election of directors, be open to the examination of the stockholders. (R. S. 1889, § 2503—x.)

SEC. 967. Officer in charge of books liable, when.—If any officer having charge of such books shall, upon the demand of a stockholder, refuse or neglect to exhibit and submit them to examination, he shall, for each offense, forfeit the sum of two hundred and fifty dollars. (R. S. 1889, § 2504—y.)

SEC. 968. Annual meeting, when held.—An annual meeting of shareholders for the election of directors shall be held by all joint stock corporations on a day which each corporation shall fix by its by-laws; and if no day be so fixed, then on the second Monday in the month of January. (R. S. 1889, § 2505.)

SEC. 969. By-laws for certain purposes, who may make.—By-laws to direct the manner of taking the votes of stockholders on the question of increasing or diminishing the number of directors or trustees, of changing the corporate name, may be made by the directors of the corporation for the time being. (R. S. 1889, § 2506—z.)

SEC. 970. By-law not valid, when.—No by-law of any such corporation regulating the election of its directors shall be valid unless it shall be made at least sixty days before the day appointed for the election to be held. (R. S. 1889, § 2507—a.)

SEC. 971. Corporate powers defined.—Every corporation as such, has power:

First—To have succession by its corporate name for the period limited in its charter, and when no period is limited, for twenty years.

Second—To sue and be sued, complain and defend in any court of law or equity.

Third—To make and use a common seal and alter the same at pleasure.

Fourth—To hold, purchase, mortgage or otherwise convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter or the law creating it, and also to take, hold and convey such other property, real, personal or mixed, as shall be necessary or requisite for such corporation to acquire in order to obtain or secure the payment of any indebtedness or liability belonging to the corporation.

Fifth—To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

Sixth—To make by-laws, not inconsistent with existing law, for the management of its property, the regulation of its affairs and for the transfer of its stock.

Seventh—To increase or diminish by a vote of its stockholders, cast as its by-laws may direct, the number of its directors or trustees

(x) Closing of transfer-books before an election, not understood as closing them against inspection by persons duly authorized thereto. 29 A. 301; 53 A. 542. Stockholder entitled to inspect books of corporation without disclosing purpose for which he desires to do so. 29 A. 326; 106 Mo. 606; 118 Mo. 441; 139 Mo. 379; 72 Mo. 119.

(y) 53 A. 542; 29 A. 301, 326.

(z) Power to make by-laws resides in the corporation itself, and must be exercised by the stockholders. 8 A. 249; 118 Mo. 447; 56 A. 145. By-laws of a corporation when properly adopted, are as binding on the members as its charter is. 119 Mo. 9. But they must not be repugnant to its charter. 9 Mo. 191; 39 A. 583; 118 Mo. 447; 26 A. 642; 9 A. 290; 78 Mo. 609; 52 Mo. 377; 34 Mo. 423. See section 971, subd. 6.

(a) 75 A. 297. See section 971, subd. 6.

to not less than three, nor more than thirteen, and may in like manner change its corporate name without in anywise affecting its rights, privileges or liabilities; such changes of name or number of directors or trustees shall take effect and be in force from the date at which the president or secretary of such corporation shall file with the secretary of state an affidavit setting forth the name adopted or the number of directors or trustees fixed, together with the date at which such change in name or number of directors or trustees was voted by the stockholders of such corporation. Any corporation may, at a meeting duly called and held, notice of such meeting first having been given in manner and form as is provided in sections 962 and 963, Revised Statutes, 1899, for increase of capital, reduce the par value of its shares of stock and correspondingly increase the number thereof, by a vote of a majority of the stock of the corporation: *Provided*, that no corporation shall engage in business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized. (R. S. 1889, § 2508, amended, Laws 1893, p. 128—b.)

(b) First—Distinction between natural persons and corporations is, the former may make any contract not prohibited by law, or against public policy, the latter can exercise no power not expressly conferred by their charter. 37 Mo. 398. After a corporation's period of existence has expired it ceases to be a corporation *de facto*, and cannot execute a valid conveyance. 133 Mo. 545. Ambiguity or doubt arising out of the terms used by the legislature must be resolved in favor of the public. 108 Mo. 550. Intent expressed by the articles of association of a corporation touching its duration govern in the construction of said articles, when that intent is not repugnant to the law. 141 Mo. 29. This case is treated on the assumption that the section of the corporation law providing a limitation of twenty years, when not otherwise provided by the articles of association, is applicable to educational corporations. *Id.* Twenty-year limitation does not apply to corporation purely charitable. 99 Mo. 533. Doubts as to duration of charter of purely business corporations resolved against unlimited duration. 129 Mo. 468. "Perpetual succession"—these words imply nothing more than a continuous succession during the existence of the corporation as fixed by its charter. 138 Mo. 332; 129 Mo. 468. No measure of duration is intended by the word "perpetual" as thus used, but only unbroken continuity; and that when no period was limited in charter, the corporation ceased to exist at the expiration of twenty years. 5 A. 337. The general law becomes a part of the charter of a company at the moment of its creation, and must be read into it the same as if it had been written therein. 133 Mo. 545. Corporation created by special act of legislature, whose period of existence was not fixed by the Act, expires by limitation at the end of twenty years, as provided by the general statutes in force at the time of the passage of the act creating it. 133 Mo. 545. See sections 960, 1008. 76 A. 439; 40 Mo. 539.

Second—Where corporation has become insolvent, it is the duty of directors to make an assignment for benefit of creditors. 104 Mo. 91. Action for slander, malicious prosecution or false imprisonment cannot be maintained against a corporation. 17 Mo. 213. But it is civilly liable for damages caused by trespass or tort of its agent. 36 Mo. 546. Suit regularly commenced is not affected by expiration of charter. 6 Mo. 361; 34 Mo. 119. Fact that a railroad company in violation of State Constitution controls a coal company can only be complained of by the state. 119 Mo. 9; 140 Mo. 539. See sections 984, 1005, 1007.

Third—Seal affixed to an instrument is *prima facie* evidence that it was affixed by proper authority. 28 Mo. 415; 42 Mo. 74; 149 Mo. 181.

Fourth—Has power to purchase, hold and convey such real and personal property as purposes of corporation require, not exceeding amount limited in charter. 32 Mo. 305. Corporations have only such powers as are specifically given by their charter, or necessary to carry into effect some specified powers. 9 Mo. 507; 10 Mo. 559; 48 Mo. 37; 43 Mo. 353. And acts creating corporations are to be strictly construed. *Id.* Only such resulting powers are implied as are obviously necessary to accomplish the ex-

SEC. 972. What powers shall vest in corporations — those organized under other laws may accept the provisions of this chapter, how.—The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created or organized, and any corporation, including those heretofore organized and now in existence under any general or special law of this state, may accept the provisions of the general laws of this state relating to corporations, by filing with the secretary of state a certificate of such acceptance, signed by its president and secretary, duly authorized by its board of directors and approved by a vote of three-fourths of its stockholders, at any meeting duly and legally called for that purpose—notice of such meeting first having been given in manner and form as provided in sections 962 and 963 of this article, or by three-fourths of the stockholders, in writing; and upon the filing of such certificate, the time of the existence of said corporation shall

press or principal purpose. 4 Mo. 242; 108 Mo. 550; 119 Mo. 333. Corporation authorized by its charter "to buy, exchange, sell, mortgage, transfer or otherwise use its property," although not thereby authorized to do a banking business, may loan its surplus funds on time and accept security therefor, follows as a necessary incident. 48 Mo. 37. In matters of simple contract, execution of instrument so as to bind corporation will be inferred from general principles of law or agency. 42 Mo. 74. A manufacturing or business corporation of this state can engage in no business not within scope of its purposes, as set forth in its articles. 41 A. 665. Wherever a corporation goes for business, it carries its charter, for that is the law of its existence, and is the same abroad as at home, when not prohibited by the laws of a foreign state. 114 Mo. 218. A corporation created for insuring property has no power to engage in banking. 10 Mo. 559. State may impose conditions on corporations which it cannot impose on individuals. 118 Mo. 388. Corporations should be permitted to prosecute their legitimate business in the same manner that an individual could who was engaged in a similar enterprise. 47 A. 608. Transfer of property by corporation when insolvent, in payment of individual debt of an officer, is fraudulent as against its creditors, though such officers own all its capital stock. 138 Mo. 576; 118 Mo. 365; 138 Mo. 576. Though insolvent, a corporation may execute an honest preference in favor of one of its creditors to the exclusion of others. 138 Mo. 576. See Const. Art. XII, Section 7. Where grant of power is given, all the means necessary to effectuate the power pass as incidents of the grant. 119 Mo. 333. Well settled rule of construction of grants by the legislature to corporations, whether public or private, that only such powers and rights can be exercised as are clearly comprehended, within the words of the act, or derived therefrom by necessary implication, regard being had to the object of the grant. 43 Mo. 353; 108 Mo. 550; 130 Mo. 10; 145 Mo. 622. Business corporation has no power to enter into a partnership, therefore cannot be held liable as a member of the partnership by reason either of its having held itself out as one, or of itself having undertaken to enter into the relation. 62 A. 390. See sections 982, 1028, 1033.

Fifth—See section 954.

Sixth—Power to enact by-laws is in stockholders, unless given to directors by charter or statute. 39 Mo. 583; 56 A. 145; 118 Mo. 447. By-laws, when properly adopted, are as binding on members as is a charter provision. 119 Mo. 9; 149 Mo. 181. See Sections 968, 970.

Seventh—See Const., Art. XII., Sec. 7.

Miscellaneous decisions. 91 Mo. 217; 92 Mo. 79; 93 Mo. 227; 94 Mo. 410; 95 Mo. 457; 96 Mo. 468; 97 Mo. 196; 98 Mo. 349; 108 Mo. 606; 110 Mo. 83; 113 Mo. 98; 114 Mo. 218; 116 Mo. 313, 667; 117 Mo. 261; 118 Mo. 238, 431; 123 Mo. 603; 125 Mo. 517; 127 Mo. 356, 439; 128 Mo. 341; 145 Mo. 622; 138 Mo. 332; 74 A. 365; 75 A. 297; 144 Mo. 157; 73 A. 135; 24 A. 338; 25 A. 54, 64; 28 A. 55; 29 A. 1, 31; 35 A. 365; 36 A. 333; 37 A. 145, 460, 505; 39 A. 131, 453, 463, 583; 40 A. 40, 318; 41 A. 670; 44 A. 59, 86; 45 A. 206; 47 A. 301, 462, 639; 49 A. 280; 50 A. 648; 51 A. 24, 66, 71; 53 A. 256; 55 A. 646, 538; 59 A. 453; 60 A. 28; 62 A. 390; 63 A. 316, 367; 64 A. 677; 65 A. 283; 66 A. 647; 68 A. 592; 70 A. 364; 138 Mo. 343; 139 Mo. 25; 141 Mo. 32. See also section 960.

be extended for such period as was originally permissible to it, or as may be stated in its certificate of acceptance. But nothing herein contained shall extend or continue to any corporation organized or existing under a special law or charter any special privilege, immunity, franchises or exemptions not possessed by corporations organized under the general laws of this state; and any corporation organized or existing under special law or charter shall, by accepting or availing itself of the provisions of this section, be deemed and held to thereby waive and surrender any and all such special privileges, immunities, franchises and exemptions, and it shall be subject to all the duties and obligations of corporations under the general laws of this state: *Provided, further*, that the duration of such corporation shall not be continued as aforesaid, until such corporation shall pay into the state treasury fifty dollars for the first fifty thousand or less of the capital stock of corporation, and a further sum of five dollars for every additional ten thousand dollars of its capital stock, as provided by law: *Provided*, that nothing in this section contained shall be construed as to authorize the renewal, continuance or extension of the charter of any company engaged in the manufacture or sale of illuminating gas. (R. S. 1889, § 2509—bb.)

SEC. 973. What shall constitute board—quorum—validity of acts, resident members, number of.—When the corporate powers of any corporation are directed by its charter, or the provisions of this law, to be exercised by any particular body or number of persons, a majority of such body or persons, if it be not otherwise provided in the charter or law creating it, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act: *Provided*, that not less than three members of such board shall be citizens and residents of the state, and all meetings thereof shall be held at the general office of the company within the state. (R. S. 1889, § 2510, amended—c.)

SEC. 974. Parol contracts binding, when.—Parol contracts may be binding upon corporations if made by an agent duly authorized by a corporate vote, or under the general regulations of the corporation; and contracts may be implied on the part of such corporations

(bb) 151 Mo. 162.

(c) Directors will not be permitted to manage corporate property for their personal gain, or to acquire an advantage over other stockholders. 129 Mo. 106. Director may, in good faith, loan money to corporation for legitimate purposes, and hold it as a valid claim. 118 Mo. 238. Where director indorses notes of corporation for its accommodation, corporation may secure such director if indorsement was in good faith. 47 Mo. 462. Directors not entitled to compensation unless by virtue of some statute, by-law, or prior action of stockholders. Neither can they vote themselves compensation for services after services have been rendered. 44 A. 59. Directors may make assignment for benefit of creditors, provided there is no restriction in statute, charter, articles of association or by-laws. 91 Mo. 367. Directors can neither represent nor bind a corporation except when duly assembled and acting as a board. 119 Mo. 9. Corporate stock is a trust fund for creditors, but it has never been held that directors are trustees for creditors. 36 Mo. 238. Directors must not use corporate funds for private purposes; if so profits must be turned over to the corporation. 95 Mo. 467. Assignment must be by resolution by majority of board of directors. 144 Mo. 331; 25 A. 439; 30 A. 15; 39 A. 131, 461, 453; 51 A. 433; 64 A. 681; 68 A. 546; 91 Mo. 367; 92 Mo. 79, 89; 93 Mo. 485; 95 Mo. 407; 96 Mo. 468; 97 Mo. 33; 119 Mo. 9; 129 Mo. 106; 144 Mo. 339; 138 Mo. 140.

from their corporate acts, or those of an agent whose powers are of a general character. (R. S. 1889, § 2511—d.)

SEC. 975. Contested corporate elections—process, how served.—In any proceeding brought to try the title to any office in any corporation organized under the laws of this state, or to test the validity of any election of director, trustee or other officer in any such corporation, if any defendant be a non-resident of this state, or have absconded from his usual place of abode in this state, or have concealed himself so that the ordinary process of law cannot be served upon him, service of process may be made upon him in the manner prescribed by sections 575 and 581, or by section 582 of the Revised Statutes of Missouri. Where a suit has been instituted in this state by a citizen thereof against a non-resident director of any corporation of this state, for mismanagement or fraud in the discharge of his official duties, it shall be the duty of such non-resident director to enter his appearance in said suit after personal service on him as provided in case of a resident defendant by the laws of the state regulating civil practice, and failure of such director to enter his appearance as herein prescribed shall work a forfeiture of his office of director. (R. S. 1889, § 2512.)

SEC. 976. Dissolution of corporation — who shall be trustees—powers and duties of.—Upon the dissolution of any corporation already created, or which may hereafter be created by the laws of this state, the president and directors or managers of the affairs of said corporation at the time of its dissolution, by whatever name they may be known in law, shall be trustees of such corporation, with full power to settle the affairs, collect the outstanding debts and divide the moneys and other property among the stockholders, after paying the debts due and owing by such corporation at the time of its dissolution, as far as such money and property will enable them; to sue for and recover such debts and property by the name of the trustees of such corporation, describing it by its corporate name, and may be sued by the same; and such trustees shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall have come into their hands. (R. S. 1889, § 2513—e.)

(d) Secretary has no power, by virtue of his office, to bind corporation by contract. 64 A. 677; 51 A. 66. Unauthorized acts of officers of corporation may be ratified. 75 Mo. 178; 127 Mo. 439; 139 Mo. 1. Ratification need not be evidenced by vote or formal resolution of directors. 75 Mo. 178; 107 Mo. 133. And need not be authenticated by corporate seal. 75 Mo. 178; 9 Mo. 468. Section only declaratory of what law was before its passage. 51 Mo. 43. Agents may be employed, how. 81 Mo. 137; 40 A. 40; 77 A. 434. Knowledge of agent knowledge of corporation, when. 38 Mo. 228; 52 Mo. 181; 66 A. 260; 67 A. 115. When not. 114 Mo. 519; 122 Mo. 332; 12 Mo. 427; 149 Mo. 181.

(e) Purely business and manufacturing corporations, formed under general statutes, are deemed dissolved when they cease to do business and have become divested of their property. 9 A. 114; 43 A. 482. But such acts would not *per se* accomplish its dissolution. 41 Mo. 563; 65 Mo. 279; 11 A. 594. When it is concluded that the objects of a corporation have been abandoned, or when it appears that the power to do business does not exist, then a legal dissolution may be declared. 50 A. 648. A corporation may go into voluntary liquidation even though it is on the eve of extinction by command of the law itself. 3 A. 159. Where corporation is dissolved, court of equity will lay hold of its assets for purpose of applying them to the payment of *bona fide* creditors. 41 Mo. 563; 42 Mo. 63. Will respect liens and preferences already acquired against its assets. 122 Mo. 154. Sales by corporation of its property in good faith, for valuable consideration, does not amount to dissolution of corporation. 41

SEC. 977. Voluntary dissolution of corporation, when permitted—judgment of dissolution, when entered.—Whenever the directors or other officers having the management of the concerns of any private corporation organized under the laws of this state, or a majority of the stockholders of such corporation shall discover that the stock, property and effects of such corporation have been so far reduced by losses or otherwise that it will not be able to pay all just demands against the same or to afford security to those who may deal with such corporation; or whenever the stockholders holding at least two-thirds in value of all the shares of stock in said corporation shall adopt a resolution favoring a dissolution of such corporation, whether said corporation be indebted or not, or whether its stock has depreciated below its par value or not, such corporation may be dissolved by a judgment or decree of the circuit court of the county in which its principal office for the transaction of its business is located, and if such office is situated in the city of St. Louis, such judgment of dissolution may be rendered by either of the circuit courts of eighth judicial circuit. (New section.)

SEC. 978. Application for dissolution, how made—petition shall contain, what.—Application for such dissolution shall be made by a petition, verified by the president and secretary or by a majority of the directors, setting forth a clear and concise statement of the reasons which induce the stockholders to desire a dissolution of the corporation. Among other things, said petition shall contain a full and true inventory of all the estate, both real and personal, in law and in equity, of such corporation, and of all the books, vouchers and securities relating thereto; also a full and true account of the capital stock of such corporation, specifying the names of the stockholders, their residence, if known, the number of shares belonging to each, the amount paid in upon such shares respectively and the amount, if any, due thereon; also all incumbrances on the property of such corporation by judgment, mortgage, pledge or otherwise, a list of all the creditors of said corporation and of all engagements entered into by said corporation, not fully satisfied or cancelled. (New section.)

SEC. 979. Interested persons, appearance and summons of—general notice to be published—continuance. Upon the filing of such petition an order shall be made by the court, if

Mo. 563. But is equivalent to surrendering of its rights where it suffers acts to be done which have the effect of destroying object for which it was created. 48 Mo. 543. Purely business and manufacturing company formed under general statutes, are deemed dissolved when they cease to do business, and have become divested of its property. 9 A. 114; 36 A. 288; 40 A. 40; 47 A. 94; 49 A. 450; 52 A. 451; 93 Mo. 197; 104 Mo. 91; 121 Mo. 614; 123 Mo. 313; 126 Mo. 393; 127 Mo. 439; 128 Mo. 341; 130 Mo. 188; 131 Mo. 280; 133 Mo. 552; 139 Mo. 467. Neither loss of all corporate property, nor failure to hold regular meeting or to elect officers, nor all combined, necessarily amount to a forfeiture of franchise. 50 A. 648. But when objects of corporation have been entirely abandoned, then a legal dissolution may be declared. *Id.* Where period of existence is not fixed by the act incorporating or by the articles of association under which it is incorporated under the general law, the corporation becomes *ipso facto* dissolved at the expiration of twenty years from the date thereof. 84 Mo. 202; 133 Mo. 345. The limited time of existence having expired, no judicial determination of the fact is required; the corporation is *de facto* dead; the dissolution is declared by the act of the legislature itself. *Id.* It can no longer act in a corporate capacity, and its title to property ceases, and devolves upon trustees for the settlement of its affairs. 123 Mo. 545; 144 Mo. 331; 149 Mo. 74, 181.

filed in term time, or by the clerk, if filed in vacation, requiring all persons interested in such corporation to show cause, if any they have, why such corporation should not be dissolved on or before a day or term of said court therein named. The several officers of said corporation and the various stockholders therein may enter their voluntary appearance in said court at the time of filing such petition, and all stockholders and creditors of said corporation and all persons having unexecuted contracts with said corporation, who do not enter their voluntary appearance in said court, shall be notified by a summons, under the hand and seal of the clerk of the court, reciting the filing of said petition, its general purpose and nature, and citing them to appear in said court on a day to be named in said writ to show cause, if any they have, against such dissolution, such day being fixed not less than twenty-one days nor more than thirty days after the filing of said petition. In addition to said summons notice of a general nature and cause of said application shall be published in some newspaper of general circulation in the county in which such proceeding is commenced, once a week for three weeks consecutively, and proof of service and publication shall be made before any order is made upon such petition. The court shall have power to continue such application for service upon all interested parties from time to time, to issue new writs if necessary, according to the practice therein. (New section.)

SEC. 980. Judgment of dissolution entered, where—certain property not to be diverted.—If upon a hearing of such application the court shall be satisfied that the prayer of such petition can be granted without prejudice to the public welfare, or the interest of the corporators or the creditors of such corporation, it may enter a judgment or decree dissolving such corporation and direct that the president and directors or managers of said corporation shall take charge of its assets and administer them as now provided by section 976 of the Revised Statutes of Missouri for the year 1899: *Provided*, that no property devoted to religious, literary or charitable uses shall be diverted from the objects for which they were granted by means of the powers herein given to any corporation to dissolve, but the same shall be preserved by the decree of court. (New section.)

SEC. 981. Copy of judgment of dissolution to be sent to secretary of state.—Whenever the court shall grant such judgment of dissolution the clerk thereof shall send a certified copy of the order of the court to the secretary of state, the expense of which shall be taxed as costs in the case, and said copy shall be filed with the incorporating papers of such company. (New section.)

SEC. 982. Conveyances, how made.—It shall be lawful for any corporation to convey lands by deed, sealed with the common seal of said corporation, and signed by the president, vice-president or the presiding member or trustee of said corporation; and such deed, when acknowledged by such officer to be the act of the corporation, or proved in the usual form prescribed for other conveyances for lands, shall be recorded in the recorder's office of the county where the land lies, in like manner with other deeds. (R. S. 1889, § 2514—f.)

(f) A deed which professes to convey to a corporation by name which has no valid existence is a nullity and passes no title to any one. 63 Mo. 268; 47 A. 94; 42 Mo. 74; 55 Mo. 218; 77 Mo. 180; 105 Mo. 255; 113 Mo. 633; 29 A. 442; 30 A. 67; 37 A. 145; 40 A. 360; 62 A. 427; 63 A. 316; 92 Mo. 79; 104 Mo. 103; 114 Mo. 218; 116 Mo. 669; 127 Mo. 439; 133 Mo. 552. See section 971, subdivision 4.

SEC. 983. Directors personally liable, when.—If the directors of any corporation shall knowingly declare and pay any dividend when the corporation is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted as long as they shall respectively continue in office: *Provided*, that the amount for which they shall be liable shall not exceed the amount of such dividend, and that if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall file their objection, in writing, with the clerk or other officer of the corporation having charge of the books, they shall be exempted from the said liability. (R. S. 1889, § 2515—g.)

SEC. 984. Corporations may sue members, when and how.—All bodies corporate, by any suit at law in any court in this state, may sue for, recover and receive from their respective members all arrears or other debts, dues and other demands which now are or hereafter may be owing to them, in like mode, manner and form as they might sue for, recover and receive the same from any person who might not be one of their body, any law, usage or custom to the contrary thereof notwithstanding. (R. S. 1889, § 2516—h.)

SEC. 985. Execution may issue against stockholders, when.—If any execution shall have been issued against any corporation, and there cannot be found any property or effects whereon to levy the same, then such execution may be issued against any of the stockholders to the extent of the amount of the unpaid balance of such stock by him or her owned: *Provided, always*, that no execution shall issue against any stockholder except upon an order of the court in which the action, suit or other proceedings shall have been brought or instituted, made upon motion in open court, after sufficient notice, in writing, to the person sought to be charged; and, upon such motion, such court may order execution to issue accordingly; *and provided further*, that no stockholder shall be individually liable in any amount over and above the amount of stock owned. (R. S. 1889, § 2517—i.)

(g) Wrongful acts of officers; where corporation will not sue; action by stockholder. 91 Mo. 217; 109 Mo. 297. Upon expiration of existence of corporation it can no longer act in corporate capacity and its title to property ceases. 133 Mo. 545. Section construed, 19 Mo. 327; 43 Mo. 42; 78 A. 463. See section 1321.

(h) When no defense to an action on subscription. 94 Mo. 560 See Const., Art. XII, sections 8 and 9. Also, 39 A. 583; 58 A. 667; 59 A. 30; 61 A. 361; 107 Mo. 133; 113 Mo. 642; 120 Mo. 330.

(i) Limitation of time as to liability of stockholders. 107 Mo. 133. Motion under this section takes place of suit in equity to reach assets in hands of stockholders. 82 Mo. 301. Proceeding by motion does not abate on death of stockholder; final adjudication treated as demand against estate. 86 Mo. 232. Proceedings cannot be maintained against administrator of deceased stockholder. 13 A. 15. Presumption is that certificate of stock in usual form is full paid. 88 Mo. 567; 15 A. 55. Franchise of corporation not subject to execution. 40 Mo. 140. One who holds stock as collateral not liable. 92 Mo. 635. In absence of fraud or collusion, judgment against corporation is conclusive evidence against stockholder in proceedings under this section. 123 Mo. 96; 131 Mo. 650. Stockholder may offset against his liability any demand he has against corporation. 130 Mo. 155. Stockholder may become creditor of corporation, and as such is entitled to same remedies as other creditors. 131 Mo. 650. Remedy by motion is cumulative and not exclusive. 10 A. 499. When liability of stockholder to judgment creditor commences. 35 A. 237. Stockholder must account to judgment creditor for dividend paid by insolvent corporation. 63 A. 521. Liability of shareholder for interest on unpaid capital stock. 47 A. 243. Appellate court will examine entire evidence and determine as in equity. 61 A. 134; 35 A. 186; 41 A. 11; 44 A. 172; 54 A. 43;

SEC. 986. *Id.* Clerk to furnish names, when.—The clerk or other officer having charge of the books of any corporation, on demand of any officer holding any execution against the same, shall furnish the officer with the names, places of residence, so far as to him known, and the amount of liability of every person liable as aforesaid. (R. S. 1889, § 2518—j.)

SEC. 987. Suit may be brought against former stockholders, when.—If any company formed under this chapter dissolve, leaving debts unpaid, suit may be brought against any person or persons who were stockholders at the time of such dissolution, without joining the company in such suit; and if judgment be rendered and execution satisfied, the defendant or defendants may sue all who were stockholders at the time of the dissolution, for the recovery of the portion of such debt for which they were liable, and the execution upon the judgment shall direct the collection to be made from the property of each stockholder respectively; and if any number of stockholders, defendants in the case, shall not have property enough to satisfy his or their portion of the execution, then the amount of deficiency shall be divided equally amongst all the remaining stockholders, and collections made accordingly, deducting from the amount a sum in proportion to the amount of such stock owned by the plaintiff at the time the company dissolved. (R. S. 1889, § 2519—k.)

SEC. 988. Persons aggrieved may apply for redress, when and where.—If any person shall conceive himself aggrieved by an election or any proceeding concerning an election of directors or officers in any such corporation, he may apply to the circuit court for redress, giving a reasonable notice of his intended application to the party to be affected thereby. Service of such notice shall be deemed sufficient, if delivered to the person in charge of the chief office of the corporation ten days before the hearing by the court. (R. S. 1889, § 2520—l.)

SEC. 989. Duty of court thereupon.—It shall be the duty of the circuit court, upon such application, to proceed forthwith, in a summary way, to hear the proofs and allegations of the parties, or otherwise to inquire into a cause of complaint, and thereupon to make such order and grant such relief as the circumstances and justice of the case shall seem to require. If the election complained of shall be set aside, the court may order a new election, at such time and place as they shall appoint. (R. S. 1889, § 2521—m.)

56 A. 87; 61 A. 138; 96 Mo. 679; 107 Mo. 133; 108 Mo. 588; 120 Mo. 45; 123 Mo. 96; 124 Mo. 153; 130 Mo. 155; 131 Mo. 650; 143 Mo. 123.

(j) Section construed. 58 A. 388; 108 Mo. 606. See sections 971, subdivision 2; 966 and 1326.

(k) Corporation may be dissolved by acts destroying the object of its creation. 43 Mo. 543; 52 Mo. 583. Dissolution may be presumed. 11 A. 550. Petition: law or equity. 43 A. 482. Statute of limitation commences to run when. 24 A. 378. Sale of property in good faith does not amount to dissolution. 41 Mo. 563; 65 Mo. 279. Nor does cessation of active business imply such dissolution. 57 Mo. 446; 65 Mo. 279. Debts due corporation survive its dissolution. 65 Mo. 244; 24 Mo. 378; 94 Mo. 410; 107 Mo. 133; 139 Mo. 467; 140 Mo. 580; 143 Mo. 127; 138 Mo. 59; 25 A. 559; 35 A. 186; 41 A. 11; 45 A. 507; 47 A. 254; 52 A. 439; 56 A. 92; 71 A. 247.

(l) Mandamus is proper remedy; remedy is cumulative. 64 A. 225; 52 A. 433; 64 A. 229; 149 Mo. 57. See Section 971, subdivision 2.

(m) Where report of inspectors show they have followed the law, and the wrong is in the organization of the directory, election should not be set aside, unless something transpired at the election which prevented votes being tendered in accord with free will of voting stockholders. 52 A. 430; 64 A. 229. See Section 988.

SEC. 990. Issues may be tried, how.—The circuit court, if they cannot otherwise arrive at a satisfactory result, may order an issue between the parties to be made up, in such manner and form, and to be tried in such court, as they shall select; or may permit or direct the attorney-general to file an information in the nature of a *quo warranto*, if the case be one in which that proceeding would be competent and effectual. (R. S. 1889, § 2522.)

SEC. 991. Duty of court in relation to the time and mode of trial.—If any such issue shall be ordered, or information permitted or directed to be filed, it shall be the duty of the circuit court to make such further orders in relation to the time and mode of pleading, the examination of witnesses or the parties, the production of books and papers, and the time and place of trial or hearing, as shall, in their judgment, be effectual for expediting the proceedings, saving expense to the parties, and causing a final determination to be had with as little delay as the nature of the controversy will permit; and the court may adjudge the costs according to equity. (R. S. 1889, § 2523—n.)

SEC. 992. Appeal not to operate as a supercedeas, when. The right of appeal from or writ of error to the circuit court shall not authorize a *supercedeas* in any case of *mandamus* brought by a stockholder to enforce his right of inspection of the corporate books, or to enforce any common law or statutory right in connection with the corporate elections and meetings. (R. S. 1889, § 2524—o.)

SEC. 993. Writs of mandamus, how served—penalty for failure to obey—receiver—fines.—Writs of *mandamus* shall be served on private corporations in the same manner as writs of summons may be served on such corporations in civil cases, and when a peremptory writ of *mandamus* shall have been issued to a private corporation, and the same shall not have been obeyed in whole or in part within the time prescribed in such writ, the court or judge may, upon application by the plaintiff, besides and in addition to or instead of proceeding against the disobedient party by attachment, fine such corporation in any sum whatsoever, and appoint a receiver and direct that he take possession of and preserve, control and manage all the property, rights, privileges, franchises and business of such corporation, and that he proceed to do the act or acts required to be done by such peremptory writ of *mandamus*, at the expense of such corporation; and upon such act or acts being done, the amount of such expenses, together with reasonable compensation to such receiver for his services, shall be ascertained by the court or judge, either by writ of inquiry or by reference to a master, as the court or judge may order; and the court or judge may order payment of the amount of such expense, compensation, fine and costs out of any moneys which may be in the hands of such receiver, and if there be insufficient funds in his hands to pay the full amount thereof, payment of the residue may be enforced by execution against all the property, rights and privileges of such corporation of every kind and description whatsoever, in like manner as in other civil cases, and said receiver shall be required to give bond, conditioned for the faithful performance of his duties, in

(n) See Section 971, subdivision 2.

(o) *Mandamus* is the proper remedy for a shareholder who is denied his right to inspect the books of the corporation. 29 A. 301; 139 Mo. 379. See Section 971, subdivision 2.

such sum and with such security as the court or judge may direct, and expenses, compensation and costs shall first be paid in full before anything shall be paid on account of such fine. All fines collected under the provisions of this section shall be paid into the state treasury, and shall constitute a part of the school fund of the state. (R. S. 1889, § 2525.)

SEC. 994. Actions against corporations — summons, how issued.—In all actions which may be instituted against any corporation or incorporated company, it shall be sufficient to issue a summons, commanding the corporation, by their corporate name, to appear and answer the action; which summons shall be directed as provided by this chapter, and returnable in like manner, and subject to the same rules and regulations as like process in case of individuals. (R. S. 1889, § 2526—p.)

SEC. 995. *Id.* How served.—When any such summons shall be issued against any incorporated company, service on the president or other chief officer of such company, or, in his absence, by leaving a copy thereof at any business office of said company with the person having charge thereof, shall be deemed a sufficient service; and if the corporation have no business office in the county where suit is brought, or if no person shall be found in charge thereof, and the president or chief officer cannot be found in such county, a summons shall be issued, directed to the sheriff of any county in this state where the president or chief officer of such company may reside or be found, or where any office or place of business may be kept of such company, and the service thereof shall be the same as above. (R. S. 1889, § 2527—q.)

SEC. 996. Return shall express, what.—On the return of such summons, served as aforesaid, the officer serving the same shall express in his return on whom, how and when the same had been executed, and if not on the chief officer, he shall express the absence of such officer, or that he cannot be found. (R. S. 1889, § 2528.)

SEC. 997. Suits, where commenced.—Suits against corporations shall be commenced either in the county where the cause of action accrued, or in any county where such corporations shall have or usually keep an office or agent for the transaction of their usual and customary business. (R. S. 1889, § 2529—r.)

SEC. 998. Notices, etc., how served.—All notices, orders and rules required to be served in the progress of any cause shall be served in like manner as in other civil cases. (R. S. 1889, § 2530—s.)

SEC. 999. Notice by publication, when authorized.—In case the sheriff or other officer shall return any summons not served, and it shall be made to appear to the court that process cannot be served, the court, or the clerk thereof in vacation, shall make an order directing the defendant to be notified of the commencement of the suit by publication, in the same manner as is now provided by law for the notification of non-residents in civil cases. (R. S. 1889, § 2531.)

(p) Section construed. 42 A. 133; 25 A. 463; 70 A. 54; 144 Mo. 147.

(q) Service of process; how returned. 144 Mo. 136; 94 Mo. 652; 90 Mo. 103; 64 Mo. 561; 61 A. 534; 42 A. 133; 144 Mo. 147.

(r) Corporation cannot be sued against its consent in county where cause of action did not accrue and it has no agent. 20 A. 92. But may be brought, where, 54 Mo. 145; 57 Mo. 88; 126 Mo. 75; 75 A. 140.

(s) Service of process, by publication of notice only, will give effect to a proceeding only so far as it is one *in rem*. 108 Mo. 588.

SEC. 1000. Records of corporation evidence, when.

The records of any company incorporated under the provisions of this chapter, or copies thereof, duly authenticated by the signature of the president and secretary of such company, under the corporate seal thereof, shall be competent evidence in any suit to which such company may be a party. (R. S. 1889, § 2532—t.)

SEC. 1001. Process on judgment shall be fieri facias.—

The process upon a judgment against any corporation shall be a *feri facias*, which the sheriff or other officer shall levy on the moneys, goods and chattels, lands and tenements of such corporation, and proceed thereon as in civil cases. (R. S. 1889, § 2533.)

SEC. 1002. Alias execution to issue, when.—If a sufficient sum be not made to satisfy such judgment and costs, other writs of execution may be issued as aforesaid from time to time, until the whole is satisfied. (R. S. 1889, § 2534.)

SEC. 1003. Proceedings against garnishees.—Proceedings against garnishees under the provisions of this chapter shall be the same as against the garnishees summoned in the case of an original attachment; but no judgment shall be rendered against him for any debt to become due at a future day, until after the same shall become due. (R. S. 1889, § 2535.)

SEC. 1004. Garnishee to have credit, for what.—For all moneys paid by any garnishee under this chapter, he shall have credit against the corporation to whom it was due. (R. S. 1889, § 2536.)

SEC. 1005. Money remaining in hands of officer shall be paid to whom.—If any moneys remain in the hands of the officer after satisfying the judgments and all costs, he shall pay the same to the corporation or its order. (R. S. 1889, § 2537.)

SEC. 1006. Debts to employes, etc., for labor, shall have priority of payment, etc.—All corporations shall make payment to their employes and other operatives of wages due for all labor and services performed by them, within three months next preceding a demand made therefor, not exceeding one hundred dollars, in preference to any other claim, debts or demands whatsoever, not secured by specific liens on property; and such priority of payment may be enforced by civil action. Payment of wages shall be made on or before the fifteenth day of each month for the full amount of all wages earned previous to the first day of that month, with interest at six per centum. If not paid, to be added to the amount of said wages when paid or recovered by suit. All debts due employes or operatives for wages of their labor shall have priority of payment from the money and assets of the corporations in the hands of officers or agents, or any receiver or assignee, over every other claim not specifically secured. Every corporation, officer, agent, receiver, assignee, or person holding money or assets, refusing to recognize the priority of employes' claims, shall be liable to such employes for the amount of all loss and damages occasioned by his unlawfully withholding the money. (R. S. 1889, § 2538, amended, Laws 1895, p. 101—u.)

(t) Acts of corporations may be generally shown as evidence like acts of individuals, but this is where there is no record. 39 A. 460. Omission in minutes of board, parol evidence supplying. 72 A. 142; 72 A. 147.

(u) President of corporation voluntarily paying its employes with his own money is not subrogated to their rights. 126 Mo. 393. Employee of corporation cannot recover his wages of sheriff holding corporate assets by attachment. 69 A. 34; 92 Mo. 89; 128 Mo. 403. See Section 1009.

SEC. 1007. Corporations of other states may be sued, how.—Any corporation incorporated by any other state or country, and having property in this state, shall be liable to be sued, and the property of the same shall be subject to attachment, in the same manner as individuals, residents of other states or countries, and having property, are now liable to be sued, and their property subject to be attached. (R. S. 1889, § 2538—v.)

SEC. 1008. Name of expiring corporation may be adopted by its successor.—Whenever the charter of any corporation in this state is about to expire by limitation of time, and the stockholders of such corporation, or a majority in interest thereof, desire to incorporate under the general corporation laws of this state for the purpose of continuing the business of such expiring corporation, it shall be lawful for the new corporation to adopt the corporate name of such old corporation: *Provided*, that nothing herein contained shall be construed to confer upon the new corporation any property, rights, privileges or franchises enjoyed or owned by the old corporation, save and except the use of the old name. (R. S. 1889, § 2538—w.)

SEC. 1009. Reduction of wages—company to give notice. Any railway, mining, express, telegraph, manufacturing or other company or corporation doing business in this state, and desiring to reduce the wages of its employes or any of them, shall give to the employes to be affected thereby thirty days' notice thereof. (R. S. 1889, § 2539.)

SEC. 1010. Notice, how given.—Such notice may be given by posting a written or printed hand-bill, specifying the class of employes whose wages are to be reduced and the amount of the reduction, in a conspicuous place in or about the shops, station, office, depot or other place where said employes may be at work, or by mailing each employe a copy of said notice or hand-bill, and such company or corporation violating any of the provisions of the preceding section shall forfeit and pay each party affected thereby the sum of fifty dollars, to be recovered by civil action in the name of the injured party, with costs, before any court of competent jurisdiction. (R. S. 1889, § 2540.)

SEC. 1011. This article not to extend to what.—Nothing contained in this article shall be construed to extend to any county or township, or to any public university, academy, seminary or school incorporated by the laws of this state. (R. S. 1889, § 2541—x.)

SEC. 1012. Duty of secretary of state to send blanks for reports, when.—The secretary of state is hereby required, on or before the fifteenth day of June in each year, to send by mail to every stock company or association, except railroad, building and loan and insurance companies, and such incorporated companies as are exempted from taxation by the laws of this state, of which he has cognizance, which is organized for purposes of gain, or to hold property within this state, blanks to be used in making the reports provided for in this article. (Laws 1893, p. 118.)

(v) Foreign corporation may be sued in courts of this State by attachment. 29 Mo. 75. Having chief officer in this State may be sued as residents here, by ordinary writ of summons. *Id.* Existing in this state for purpose of service only, is a resident of the State where created. 24 A. 91; 47 A. 409; 49 A. 345; 126 Mo. 69. See Section 971, subdivision 2; 1024, 1025, 1026, 1027, 1315, 1316, 1317 and 1318.

(w) See Section 971, subdivision 1.

(x) 86 Mo. 358; 42 A. 462.

SEC. 1013. Domestic corporations shall report, what and when.—Every incorporated company, other than railroad, building and loan and insurance companies, and such corporations as are exempted from taxation by the laws of this state, formed under and by authority of the laws of this state, whose capital stock is divided into shares, shall, annually, on the first day of July, report to the secretary of state the location of its principal business office, the name of its president and secretary, the amount of its capital stock, both subscribed and paid up, the par value of its stock and the actual value of its stock at the time of making said report, the cash value of all of its personal property and of all of its real estate within this state on the first day of June immediately preceding, and the amount of taxes, city, county and state, paid by the corporation in this state for the year last preceding the report. (Laws 1893, p. 118.)

SEC. 1014 Foreign corporations shall report, what and when.—Every incorporated company, except railroad, building and loan and insurance companies, formed in any state, territory or county other than the state of Missouri, doing business in and having an office, factory or plant in this state, shall, annually, on the first day of July, report to the secretary of state the location of its principal office, factory or plant in this state, the name of its principal officer in this state, the cash value of all of its personal property and of all of its real estate within this state on the first day of June immediately preceding, the amount of taxes, city, county and state, paid by the corporation in this state, for the year preceding the date of the report. (Laws 1893, p. 118.)

SEC. 1015. Failure to receive blanks no excuse for failure to report.—It is hereby made the duty of the officers of all corporations affected by this act to keep their books and accounts in such a manner as to enable them accurately to comply therewith. It shall also be the duty of such officers of corporations to promptly make and return the reports required by this article; and no corporation to which this article applies shall be held to be excused from making the report herein required by reason of failure to receive the blanks provided to be supplied by the secretary of state by section 1012 of this article. (Laws 1893, p. 118.)

SEC. 1016. By whom reports shall be signed.—Each of said reports shall be signed and sworn to according to law, before an officer authorized to administer oaths, by the president or secretary, if the corporation be organized under the laws of this state, and by its principal officer in this state, if organized in any other state, territory or country. And in case said corporation is in the hands of an assignee or receiver, then such report shall be signed and sworn to by said assignee or receiver. (Laws 1893, p. 118.)

SEC. 1017. Penalty for failure to make report—duty of secretary of state.—Every incorporation to which this act applies, failing, within sixty days from July the 1st in each year, to make the report herein provided for, shall be subject to a fine of not less than fifty nor more than one thousand dollars for each offense, and each succeeding thirty days of such failure shall constitute a separate offense and be subject to a like fine, which said fines shall be cumulative, and one action may be maintained to recover one or more such fines, to be recovered before any court of competent jurisdiction. No suit shall be maintained for any such offense unless brought within six months from September 1st of the year in which the report is due,

which date shall be the time when such right of action accrues; and it is hereby made the duty of the secretary of state, as soon as practicable after the first day of September in each year, to report to the prosecuting attorney of the county in which any such delinquent corporation may be located; the fact of its failure to make the required report, and the prosecuting attorney shall, at the first court term after he receives the report from the secretary of state, institute proceedings in the name of the state, at the relation of the county, to recover the fine or fines herein provided for, which shall be applied to the county revenue fund, except that for instituting and prosecuting said suits the prosecuting attorney shall receive as his compensation one-fourth of the penalty collected; and in case any such suit shall be taken to either of the courts of appeals or the supreme court, then the attorney-general is hereby required to assist the prosecuting attorney, and the attorney-general shall also be entitled to one-fourth of the amount recovered from the corporation violating the law. The secretary of state shall, whenever a corporation makes its report after the time provided by law for the making of such report, certify that fact to the prosecuting attorney. (Laws 1893, p. 118.)

SEC. 1018. Duty of retiring corporation to report affidavit of dissolution to secretary—penalty for failure.—The president or secretary of every domestic incorporated company in this state, when it shall dissolve, and the principal officer of every foreign corporation when it shall retire from business in this state, is hereby required to file with the secretary of state an affidavit to that effect, and any failure to comply with the provisions of this section shall subject such company or the officers thereof to a penalty of from fifty to five hundred dollars, to be collected as is provided for the collection of penalties and remuneration of prosecuting officers in section 1017 of this article. The mere retirement from business of a domestic corporation, without dissolution, shall not exempt it from the requirement to make reports under this article. The prosecuting attorneys in the various counties, to whom corporations are reported as having failed to comply with this act, when they shall be unable to find the officers of said corporations, or to secure service upon them for its violation, or when they shall ascertain that said corporations were dissolved before the passage of this act, are hereby required to certify the fact to the secretary of state, separately as to each corporation, and such certificate shall be taken by the secretary of state as *prima facie* evidence that the corporation is defunct and out of existence for the purposes of the records of his office. (Laws 1893, p. 118.)

SEC. 1019. Assessors to report lists of corporations, when.—It shall be the duty of the assessor of each county, and the president of the board of assessors in the city of St. Louis, to make to the secretary of state, when requested by him so to do, a report of all the incorporated companies, foreign or domestic, doing business in the county for which he was elected, and in the city of St. Louis, and he shall receive compensation therefor from the county or city. (Laws 1893, p. 118.)

SEC. 1020. Secretary of state to report summary of reports to general assembly.—It shall be the duty of the secretary of state to bind in books the reports received from corporations under this act, and to prepare and print, before each regular meeting of the general assembly, and to submit thereto, 250 copies of a condensed

statement of the totals of each item required by this act to be reported. (Laws 1893, p. 118.)

SEC. 1021. Circuit attorney in St. Louis, duties of.—The circuit attorney shall for the city of St. Louis perform such duties as are in this act provided to be done by the prosecuting attorneys. (Laws, 1893, p. 118.)

SEC. 1022. General office must be kept in state—railroads.—Every corporation created by or existing under the laws of this state shall have and keep a general office for the transaction of business, and shall have and keep such office within this state, and shall have at least three of its directors citizens and residents of this state; and in case such a corporation is a railroad or a railway company, it shall have such general office located on or near the line of its road or route mentioned in its charter or articles of association. Every corporation, wherever or however created or existing, which owns, controls or operates a railroad of one hundred and fifty miles or more in length in this state, and which railroad in this state was constructed under a franchise or charter granted by or derived from this state, shall have its general office for the control, operation and management of such railroad located in this state, and on or near the line of the said railroad: *Provided*, that where two or more such railroads are under a common control or management, the maintenance of but one general office therefor within this state, and upon the line of some one of such railroads, shall be required. At such general office shall be kept the offices of the superintendent, general manager or director, traffic manager, auditor, treasurer and paymaster, general freight agent and general ticket and passenger agent, under whatever name the duties usually pertaining to such offices may be transacted, together with all books of account and papers appertaining to the business of such offices; and if the corporation was created by or exists under the laws of this state, there shall also be kept at such general office the office of the secretary of the corporation, and all of the records and books of such corporation. (Laws 1891, p. 78, amended, Laws 1893, p. 124—y.)

SEC. 1023. Penalty.—Any corporation failing or refusing to obey or comply with any of the provisions of the foregoing section for the period of six months, shall be deemed and held to have forfeited any charter or franchise granted by or derived from this state, and shall be enjoined from transacting any business within the limits of this state; and such forfeiture and injunction may be decreed by any circuit court of any county in which such corporation may do business, or into which any line of such railroad or railway may extend, in a suit to be instituted for that purpose, in the name of the state of Missouri, by the prosecuting attorney of the county in which such suit is prosecuted. (Laws 1891, p. 78.)

SEC. 1024. Foreign corporations to keep office in this state, when—subject to same conditions as domestic concerns—not permitted to encumber property, when.—Every corporation for pecuniary profit formed in any other state, territory or country, before it shall be authorized or permitted to transact business in this state, or to continue business therein if already established, shall have and maintain a public office or place in this state

(y) When corporation has been fully organized, and is exercising all functions contemplated by its charter. Stockholders may elect directors outside of the State.
35 Mo. 13. See Const., Art. XII, Section 15.

for the transaction of its business, where legal service may be obtained upon it, and where proper books shall be kept to enable such corporation to comply with the constitutional and statutory provisions governing such corporation; and such corporation shall be subjected to all the liabilities, restrictions and duties which are or may be imposed upon corporations of like character organized under the general laws of this state, and shall have no other or greater powers. And no foreign corporation established or maintained in any way for pecuniary profit of its stockholders or members shall engage in any business other than that expressly authorized in its charter, or the law of this state under which it may come, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business. And no corporation incorporated under the laws of any other state, territory or country, doing business in this state, shall be permitted to mortgage, pledge or otherwise encumber its real or personal property situated in this state, to the injury or exclusion of any citizen or corporation of this state who is a creditor of such foreign corporation, and no mortgage by any foreign corporation, except railroad and telegraph companies, given to secure any debt created in any other state, shall take effect as against any citizen or corporation of this state, until all of its liabilities due to any person or corporation in this state at the time of recording such mortgage have been paid and extinguished. (Laws 1891, p. 75—z.)

SEC. 1025. Foreign corporations to file articles where—duty of secretary of state not to release certain companies—payment of tax not to apply to railroad companies already in state, nor to drummers for corporations.— Every company incorporated for purposes of gain under the laws of any other state, territory or country, now or hereafter doing business within this state, shall file in the office of the secretary of state a copy of its charter or articles of incorporation, or, in case such company is incorporated merely by a certificate, then a copy of its certificate of incorporation, duly certified and authenticated by the proper authority; and the principal officer or agent in Missouri of the said corporation shall make and forward to the secretary of state, with the articles or certificate above provided for, a statement duly sworn to of the proportion of the capital stock of the said corporation which is represented by its property located and business transacted in the state of Missouri, and such corporation shall be required to pay into the treasury of this state, upon the proportion of its capital stock represented by its property and business in Missouri, incorporating taxes and fees equal to those required of similar corporations formed within and under the laws of this state. Upon compliance with the above provisions by said corporation, the secretary of state shall give a certifi-

(z) Foreign corporation not engaged in business in this State may bring suit. Section 1024 has no application to such corporations. 70 A. 509. If it does not comply with the statutory provision permitting it to do business in this State, it has no authority to make contracts, and notes given to it are void. 78 A. 404. Since its transactions are invalid, such acts may be taken advantage of by the parties affected without waiting for action on part of State. 78 A. 404. Entrance of a foreign corporation into the State and settlement therein for the purpose of operating its business is not a right, but an act of grace, and the State may prescribe any condition it sees proper. 78 A. 404; 149 Mo. 165; 70 A. 509; 71 A. 269; 78 A. 404; 146 Mo. 662; 148 Mo. 583; 141 Mo. 165.

cate that said corporation has duly complied with the laws of this state, and is authorized to do business therein, stating the amount of its entire capital and of the proportion thereof which is represented in Missouri; and such certificate shall be taken by all courts in this state as evidence that the said corporation is entitled to all the rights and benefits of this act, and such corporation shall enjoy those rights and benefits for the time set forth in its original charter or articles of association, unless this shall be for a greater length of time than is contemplated by the laws of this state, in which event the time of duration shall be reckoned from the creation of the corporation to the limit of time set out in the laws of this state: *Provided*, that the secretary of state shall not issue such certificate to any corporation having the name of any corporation heretofore incorporated in this state for similar purposes, or an imitation of such name: *Provided*, that nothing in this article shall be taken or construed into releasing foreign loan, building and loan or bond investment companies on the partial payment or installment plan from any provisions of law requiring them to make a deposit of money with a proper officer of this state, to protect from loss the citizens of this state who may do business with such loan building and loan or bond investment companies: *Provided*, that the requirements of this article to pay incorporation tax or fee shall not apply to railroad companies which have heretofore built their lines of railway into or through this state; and *provided further*, that the provisions of this article are not intended to and shall not apply to "drummers" or traveling salesmen soliciting business in this state for foreign corporations which are entirely non-resident. (Laws 1891, p. 75, amended, Laws 1895, p. 101—a.)

SEC. 1026. Penalty for violation of two preceding sections—duties of secretary of state and prosecuting attorneys—penalties to go where.—Every corporation for pecuniary profit, formed in any other state, territory or country, now doing business in or which may hereafter do business in this state, which shall neglect or fail to comply with the conditions of this law, shall be subject to a fine of not less than \$1,000, to be recovered before any court of competent jurisdiction; and it is hereby made the duty of the secretary of state, immediately after August 1, of the year 1891, and as often thereafter as he may be advised that corporations are doing business in contravention to this act, to report the fact to the prosecuting attorney of the county in which the business of such corporation is located, and the prosecuting attorney shall, as soon thereafter as is practicable, institute proceedings to recover the fine herein provided for, which shall go into the revenue fund of the county in which the cause shall accrue; in addition to which penalty, on and after the going into effect of this act no foreign corporation, as above defined, which shall fail to comply with this act, can maintain any suit or action,

(a) Contract of foreign corporation invalid, when. 59 A. 30. To defeat action on note given to foreign corporation, maker must show corporation was resident institution of State. 71 A. 259. To obtain a charter for the purpose of evading the laws of a foreign state, under cover of the rule of comity, would be a fraud upon both states, and absolutely void, and the incorporators would become liable as partners for the debts of the alleged corporation. 49 A. 345. A corporation whose charter was obtained by a legal fraud has no lawful existence. 59 A. 130. A subsequent compliance with the Statute cannot relate back and validate a transaction which was invalid when it took place. 71 A. 259; 149 Mo. 165; 70 A. 509; 71 A. 259; 73 A. 404; 148 Mo. 583.

either legal or equitable, in any of the courts of this state, upon any demand, whether arising out of contract or tort: *Provided*, that the provisions of this section shall not apply to railroad companies which have heretofore built their lines of railway into or through this state; nor to "drummers" or traveling salesmen soliciting business in this state for foreign corporations which are entirely non-resident. (Laws 1891, p. 75—b.)

SEC. 1027. Three preceding sections not to apply to insurance companies.—This act does not apply to insurance companies, and is not to be taken or construed to change or modify the laws which are directly applicable to that character of corporations, but apart from the insurance laws, all acts and parts of acts inconsistent with this act are hereby repealed. (Laws 1891, p. 75.)

SEC. 1028. Grants to be restored in certain cases.—It shall be unlawful for any corporation doing business in this state at any time, or for the officers, agents or others having control of the corporation or of the business or property of such corporation, to move, abandon or discontinue, in any way, to any material extent, any factory, workshop, office, agency, or other establishment, or the work or business carried on therein, from or in any city, town or other place within this state, without first repaying and restoring any and all money, bonds, lands and other property, which have been, or shall hereafter be, given or granted as a consideration or inducement for the location or construction, operation, enlargement or maintenance at any such city, town or place, of such factory, workshop, office, agency or establishment, or of the work or business carried on thereat; and such repayment or restoration must include and be accompanied by the payment of lawful interest on such money, bonds, lands and other property, or upon the proceeds or reasonable value thereof, for the full period that shall have elapsed between the date of the original gift or grant and such final repayment and restoration. (Laws 1891, p. 85.)

SEC. 1029. Provisions and penalties to apply, in what cases.—The provisions and penalties in this act shall apply in all cases where the gift or grant was or shall be made by any city, town, company, person or persons, and they shall apply in all cases where the gift, grant, consideration or inducement, was made or paid to the corporation owning or operating such factory, workshop, office,

(b) If a foreign corporation does not comply with the statutory provisions permitting it to do business in this State, it has no authority to make contracts, and notes given to it are void. 78 A. 404. Such acts may be taken advantage of by parties affected without waiting for action on part of the State. *Id.* A contract made in this State by a foreign corporation which has failed to comply with the law is invalid. 69 A. 30; 149 Mo. 164; 70 A. 509; 71 A. 259; 78 A. 404; 148 Mo. 583. A corporation is not a "citizen" within the meaning of clause 1, Sec. 2, Art. 4, Const. U. S., but simply a creature of local law and has not even an absolute right of recognition in other states, depending solely for that upon the assent of those states which may be given on such terms as they please. A state has the right to exclude foreign corporations from doing business within its territory. 94 U. S. 536. Such company has no constitutional right to transact business in another state, hence its exclusion therefrom, from whatever cause, violates no constitutional rights. *Id.* A state has power to discriminate between its own corporations and those of other states, and the nature and degree of such discrimination belongs to the state to determine, subject only to such limitations as are found in the federal Constitution. 118 U. S. 394; 125 U. S. 131; 129 U. S. 26; 132 U. S. 232; 8 Wall. 163; 10 Wall. 566; 11 Wall. 423; 13 How. 404; 13 Pet. 519; 2 Paine 501.

agency or establishment, and shall apply as well in all cases where such gift, grant, consideration or inducement, was made or paid to any officer, agent, receiver or trustee of such corporation, or at the time in control of the property or business of the corporation; and the provisions and penalties of this act shall apply also if the corporation has succeeded to the rights, franchises, property or business of any corporation to which, or to the officers, agents, receivers or trustees of which corporation, or of its property, any such gift, grant, consideration or inducement, was or shall have been made or paid. (Laws 1891, p. 85.)

SEC. 1030. Violation made a misdemeanor.—The violation of any of the provisions of this act by any corporation, or any shareholder, officer or agent of any corporation, or by any person succeeding to or controlling or managing the property or business of such corporation, is hereby made a misdemeanor, to be punished by fines, penalties, forfeitures, injunctions and imprisonment, as provided in other sections of this act. (Laws 1891, p. 85.)

SEC. 1031. Penalty.—Any shareholder, officer, agent or other person violating any of the provisions of this act shall be punished by imprisonment for not more than one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment; any corporation violating any of the provisions of this act shall be punished by a fine of one thousand dollars for each day that shall elapse between such act of removal, abandonment or discontinuation, and the repayment and restoration required by this act; and any corporation found guilty of violating any of the provisions of this act shall also forfeit all right or franchises derived from or enjoyed within this state, and shall be enjoined from transacting any business within the state. (Laws 1891, p. 85.)

SEC. 1032. Restorations made, to whom.—The repayments and restorations required by this act shall be made to the city, town, company, person or persons, by which or whom the gift, grant, consideration or inducement, was made or paid, or to their successors, assigns or legal representatives. (Laws 1891, p. 85.)

SEC. 1033. Suits, how instituted.—The forfeitures and injunctions provided for in this act may be decreed and enforced by any circuit court of any county in which any such corporation may do business, in a suit to be instituted for the purpose, in the name of the state of Missouri, by the prosecuting attorney of the county in which such suit is prosecuted. (Laws 1891, p. 85.)

ARTICLE II.

RAILROAD COMPANIES.

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- 1153. Act applies to all shipments, how.
- 1154. Commissioners liable to *mandamus* and fine.
- 1155. Appropriation to carry out act.
- 1156. This article not to repeal any other law.
- 1157. Express companies to have facilities.
- 1158. *Id.* All express companies served alike.
- 1159. *Id.* Duty of commissioners.
- 1160. Penalty for overcharges on freight.
- 1161. Corporate powers to cease, when.
- 1162. Existing and future corporations governed by this article.
- 1163. "Railroad corporation" defined.
- 1164. Union depots, how constructed—corporation for—railroad company may construct.
- 1165. Powers of such corporation or railroad company.
- 1166. Stockyards and cars, cleaned.
- 1167. Penalty for violation of preceding section.
- 1168. Time for the completion of certain roads extended.
- 1169. Duty of railroad companies to maintain connecting switches, when.
- 1170. Live stock to have precedence in shipment over dead freight.
- 1171. Penalty for failure to comply with preceding sections.
- 1172. Depots to be maintained at grade crossings, when.
- 1173. Formation of corporation to build line from county seat to railroad or river.
- 1174. Powers and duties.

SEC. 1034. Any number of persons, not less than five, may form a corporation.—Any number of persons, not less than five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property; and for that purpose may make and sign articles of association, in which shall be stated the name of the company, the number of years the same is to continue, the places from and to which the road is to be constructed or maintained or operated, the length of such road, as near as may be, and the name of each county in the state through or into which it is made or intended to be made, the amount of the capital stock of the company, which shall not be less than ten thousand dollars for every mile of standard or broad gauge, nor less than five thousand dollars for every mile of narrow gauge road constructed or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of the directors of the company, not less than five nor more than thirteen in number, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of section 1036, such articles of association may be filed in the office of the secretary of state, who shall indorse thereon the day

they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in said company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions relating thereto contained in this chapter. (R. S. 1889, § 2542—c.)

SEC. 1035. General and additional powers.—Every corporation formed under this article shall, in addition to the powers hereinbefore conferred, have power: First, to cause such examination and survey for its proposed railroad to be made as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers, agents or servants, to enter upon the lands or waters of any person; but such corporation shall be liable and subject to responsibility for all damages which shall be done thereto; second, to take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroads; but the real estate received by voluntary grant shall be held and used for the purpose of such grant only; third, to lay out its road, not exceeding one hundred feet in width, and to construct the same; and, for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this chapter for lands taken for the use of the company; fourth, to construct its road across, along or upon any stream of water, water-course, street, highway, plank-road, turnpike or canal which the route of its road shall intersect or touch, but the company shall restore the stream, water-course, street, highway, plank-road and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Nothing herein contained shall be construed to authorize the erection of any bridge or other obstruction across or over any stream navigated by steamboats at the place where any bridge or other obstruction may be proposed to be placed, so as to prevent the navigation of such stream, nor to authorize the construction of any railroad not already located in, upon or across any street in a city or road of any county, without the assent of the corporate authorities of said city, or the county court of such county; fifth, to cross, intersect, join and unite its railroad with any other railroad before constructed, at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and

(c) Subscriptions to stock. 31 Mo. 19; 39 Mo. 485; 54 Mo. 58; 53 Mo. 156; 57 Mo. 70; 65 Mo. 542; 67 Mo. 363; 69 Mo. 150; 83 Mo. 235, 634; 84 Mo. 263. Assent. 45 Mo. 242; 51 Mo. 493, 522, 350; 67 Mo. 331, 353, 476; 69 Mo. 150; 72 Mo. 329; 96 Mo. 29; 120 Mo. 577. Subscriptions to branch lines. 67 Mo. 445. Subscribers not released from liability, when. 18 Mo. 210; 22 Mo. 291; 36 Mo. 294. Where subscribed on conditions, conditions must be complied with. 64 Mo. 30; 65 Mo. 542. One can become stockholder only in manner prescribed by statute. 83 Mo. 235; see 72 Mo. 110.

manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided in this chapter for the condemnation of lands for railroad purposes; sixth, to take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor; seventh, to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freights and business; eighth, from time to time to borrow such sums of money as may be necessary for the completion, equipment or repair of their railroad, or for the funding of any floating debt, or for the making of any addition or extension thereto authorized by their charter, or for the making connection with any bridge by tunnel or otherwise; and for any or all of the purposes above named may issue and dispose of their bonds for any amount so borrowed, and may mortgage their corporate property and franchise, or any part thereof, to secure the payment of any debt contracted by the company for the purposes aforesaid, or any one of them: *Provided*, that the entire amount of the bonded indebtedness of said corporation shall never exceed the amount of its authorized capital, nor shall such corporation increase its bonded indebtedness except for the purposes and in the manner provided in section 962; ninth, to construct, maintain and operate in connection with any railroad bridge across any water-course or navigable stream of water within this state a toll bridge for the passage of wagons, vehicles, foot passengers and animals, and to charge reasonable rates of toll therefor: *Provided, however*, that any such toll bridge shall not be so constructed as to prevent the navigation of such water-course or stream of water. (R. S. 1889, § 2543, amended, Laws 1895, p. 121—d.)

(d) State may authorize construction of other railroads across tracks whenever public welfare so requires. 118 Mo. 599. Circuit court may appoint commissioners when railroads fail to agree on manner of crossing and amount of compensation. *Id.* Taking private property for railroad is not for private use. 25 Mo. 277. The public utility of improvement is obvious. 27 Mo. 373. Railroad company has no power to acquire land for purposes of speculation. 45 Mo. 212. Occupancy of land by railroad company, under condemnation proceedings, constitutes only an easement in land. 50 Mo. 496; 121 Mo. 169. When non-user works abandonment of easement. 108 Mo. 50. Railroad company is entitled to free and uninterrupted enjoyment of road constructed for its use. 26 Mo. 441. When owner of land relinquishes to company, he cannot, after such relinquishment and entry by company, maintain trespass or ejectment against it. 63 Mo. 68; 72 Mo. 342; 103 Mo. 295; see 113 Mo. 561. Covenant and condition in right-of-way deed as to annual pass. 116 Mo. 26. Road-bed, rails and right-of-way not personalty. 7 A. 446. Donation to secure road at particular place not void as against public policy. 84 Mo. 263. A fair and substantial compliance with conditions entitles company to benefit of donation. *Id.* Conditional grant of right-of-way construed. 96 Mo. 174. Railroad company not liable for injury done by embankment or bridge in causing surface water to overflow land, where road was properly constructed. 60 Mo. 329; 72 Mo. 514; 76 Mo. 614; 78 Mo. 504; 83 Mo. 271; 84 Mo. 151; 97 Mo. 253. But where constructed without lawful authority damages for injuries may be recovered, when. 83 Mo. 271. Effect of occupation of land without authority. 108 Mo. 581; 115 Mo. 618; 117 Mo. 414; 127 Mo. 298. Measure of damages and liability for negligent construction. 72 Mo. 514; 78 Mo. 504; 80 Mo. 457; 30 A. 365; 36 A. 254; 47 A. 491; 53 A. 289. Easement must be disposed of as a whole to another corporation for same uses for which it was acquired; an attempt to divert would result in reversion. 122 Mo. 375. General mechanic's lien law cannot be enforced against buildings erected by railroad company on

SEC. 1036. Articles of association, when to be filed.—Such articles of association shall not be filed and recorded in the office of the secretary of state, until at least one thousand dollars of stock for every mile of standard or broad gauge railroad, nor until at least five hundred dollars of stock for every mile of narrow gauge railroad proposed to be made, is subscribed thereto and five per cent. paid thereon, in good faith and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto an affidavit, made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and five per cent. paid in cash thereon, as aforesaid, and that it is intended, in good faith, to construct or maintain and operate the broad, standard or narrow gauge road mentioned in such articles of association; which affidavit shall be recorded with the articles of association, as aforesaid: *Provided*, that such articles of association shall not be filed and recorded until such corporation or association shall pay into the state treasury fifty dollars for the first fifty thousand dollars or less of the capital stock of the corporation or association, and a further sum of five dollars for every additional ten thousand dollars of its capital stock, as provided by law. (R. S. 1889, § 2544—e.)

SEC. 1037. Copy of articles of association evidence, when.—A copy of any articles of association filed and recorded in pursuance of this article, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of state, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated. (R. S. 1889, § 2545.)

SEC. 1038. Directors to appoint officers.—The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws of the company. (R. S. 1889, § 2546.)

SEC. 1039. Shall be subject to certain regulations in the election of directors.—Every railroad company or corporation formed under the provisions of this article shall, in addition to the law regulating private corporations concerning the election of directors, be subject to the following regulations: First, at every election of directors, three persons, having the qualifications of directors,

land held by it in fee. 18 A. 340. Railroad track laid in road or street must not destroy its use as a public thoroughfare. 98 Mo. 20; 122 Mo. 86; 126 Mo. 26; 129 Mo. 455; but street may be devoted to any purpose consistent with use as thoroughfare. 77 Mo. 313; 100 Mo. 508; 113 Mo. 308; 122 Mo. 86; 126 Mo. 26; 68 A. 642. Street or road cannot be occupied by track without permission of proper authorities. 86 Mo. 288. Effects of condition subsequent in ordinance allowing use of street. 70 Mo. 231; 79 Mo. 632. Effect in deed to company. 76 Mo. 207; 91 Mo. 493; 103 Mo. 296; 127 Mo. 298; 33 A. 165. When street is occupied by legal authority and a railroad is properly constructed and operated, a private action will not lie against company for maintaining nuisance. 64 Mo. 149; 100 Mo. 508; 111 Mo. 28. City can subject railroad to reasonable regulations, even after giving permission to construct road in public street. 85 Mo. 674; 71 A. 670. Duty of railroad company to keep streets from becoming obstructed. 97 Mo. 151; 70 A. 604. Effect of municipal ordinances regulating running of trains. 90 Mo. 548; 91 Mo. 33; 96 Mo. 232, 279; 96 Mo. 290, 509; 108 Mo. 525; 111 Mo. 555; 116 Mo. 450. Establishing streets and roads across railroads. 49 Mo. 490. Where equity will permit enjoyment of franchise. 31 A. 23; 85 Mo. 674.

(e) Liability to assessment of subscribers to articles of association of projected corporation. 17 A. 645.

shall be chosen by the persons entitled to vote for directors, as inspectors of election, whose duty it shall be to act as such, and any two of whom shall be competent to act; each acting inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation for which he is chosen: *Provided*, that the inspectors of the first election for directors shall be chosen by the board of directors named in the articles of association; second, no person shall be chosen or appointed an inspector of an election of directors in a corporation of which he shall be a director or officer. (R. S. 1889, § 2547.)

SEC. 1040. Capital stock increased, when.—In case the capital stock of the company formed under this act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of the persons holding the larger amount in value of the stock, increase its capital stock or its bonded indebtedness from time to time in the manner prescribed by law. (R. S. 1889, § 2548.)

SEC. 1041. Persons holding stock in fiduciary capacity not liable as stockholders.—No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholders accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate of the ward or person interested in such fund would have been, if he had been living and competent to act, and held the same stock in his own name. (R. S. 1889, § 2549—f.)

SEC. 1042. Transportation certificates may be issued—effect of.—Any railroad company heretofore incorporated, or which may be hereafter organized, or incorporated in this state in pursuance of law, may receive subscriptions to the capital stock of such company or corporation to aid in the construction or equipment of its road, to be known as "transportation subscriptions," and the certificates of stock to be issued thereon, as hereinafter provided, shall be known as "transportation certificates," each of which shall be for an amount equal to one share of stock in such company and may be issued to one or more persons, and shall entitle the holder or holders thereof, or their assigns or legal representatives, to all the privileges of a stockholder in such company, but shall not subject the holder to any liability for the debts or obligations of such company, and shall be an irrevocable and indefeasible first lien and charge upon and against such railroad, and the road-bed, rolling stock and depots, engine houses and machine shops of such company, then in possession of or thereafter acquired by such company or its successor or successors or assigns, whether in the hands of such company or of any other person, company or corporation whatsoever into whose hands or possession the same may at any time come, until taken up, paid

(f) Statute construed. 72 Mo. 110. One who voluntarily places himself on books of corporation, as owner of stock, will be estopped to deny title as against creditors. 32 Mo. 301. Hearing and determination of motion relative to execution against stockholder to be by court without jury. 82 Mo. 301. Liability of stockholders to creditors. 52 Mo. 635.

or discharged by such company as hereinafter provided, except the liens provided by law in favor of the employes of a railroad company, and in favor of parties performing labor, or furnishing materials for the construction or the improvement of the road-bed, rolling stock, station houses, depots, bridges or culverts, and except as to mortgages recorded in the county or counties through which the line of such road runs or is proposed to be run, before the date of the making of such subscription; which mortgages shall have the preference only as to so much of such road and the property of such company as lies or is situated in counties in which the same are at that time recorded; and such mortgage shall not have any preference as a lien upon any property of such company acquired after the time of making such subscriptions. (R. S. 1889, § 2550.)

SEC. 1043. Subscription for certificates, how taken—certificates to issue, when.—Whenever any railroad company shall decide, by a majority vote of the stockholders present at any regular meeting, to obtain subscriptions as provided for in the preceding section, they shall prepare a statement of the terms and conditions upon which they will take the same, together with the rates at which they propose to transport passengers and freight in exchange for such certificates, which statement shall be signed by the president and countersigned by the secretary of said company, and acknowledged in the manner in which conveyances of real estate are required by law to be acknowledged, and recorded in the office of the recorder of deeds of the county in which such subscriptions are proposed to be taken, before taking any subscriptions, and shall open a subscription book or books, which shall be headed with a copy of the statement aforesaid, and be ruled in appropriate columns for the names of subscribers, the number of shares subscribed for by each, date of the subscription, and the time and manner of payment, whether in money, property, material or work, which book or books shall be in duplicate, and so signed by all subscribers before their subscriptions shall be binding, one copy of which shall be retained by said company, and the other deposited and kept in the office and charge of the clerk of the county court of the county in which the subscribers reside, who shall keep the same as a public record of his office, but never allow it to be taken therefrom; and upon so signing such subscription books, the signer or signers, respectively, shall severally become liable and bound to pay the amount, or perform the work or furnish the material by them respectively subscribed, at the time and place, and in the manner required by the terms of the subscription; and such company, its successors and assigns, shall be bound on its part by all the terms and stipulations thereof, and to issue certificates of stock as aforesaid, to each of said subscribers, upon their fulfillment of the terms of their several contracts and subscriptions; and any such company, its successors or assigns, failing or refusing to issue such certificate or certificates to any subscriber or subscribers, upon demand, after he or they shall have complied with the terms of his or their subscription or subscriptions, and done the work, or furnished the material, or deposited the money called for thereby with the treasurer of such company, or with the county treasurer of the county in which such subscriber resides, to the credit of such company, or refusing to take or accept the proportional part thereof in payment of freight charges or passenger fare, as hereinafter provided, shall, in addition to all other liabilities for the breach of such contract, be liable to be en-

joined at the suit of any one or more of the subscribers so aggrieved, against running trains upon, or in anywise operating or conducting such road until such certificate shall be issued or acceptance made. (R. S. 1889, § 2551.)

SEC. 1044. Certificates, how issued—may be sued on, how.—Any two or more persons may unite in their subscriptions so as to make the same joint as well as several, and have the certificates of stock issued thereon to them jointly; but in the absence of express agreement to the contrary, all subscriptions shall be several and not joint, and may be sued upon severally in any court of competent jurisdiction, without filing the original subscription list as an exhibit in the cause. (R. S. 1889, § 2552—g.)

SEC. 1045. Certificates shall draw interest and be assignable.—Every certificate of stock issued under the provisions of this article shall recite that fact upon its face; shall draw interest from date at six per cent. per annum, unless otherwise agreed in the articles of subscription; and shall be assignable by indorsement, under the hand of the holder thereof, and shall entitle the holder or his assignee to an amount of transportation, either freight or passenger, in his own right or at his request, over any and all parts of the road of such company, its successors, assigns, lessees, or any company operating the same at the time, to an amount equal to the face value thereof and accrued interest, if any, at rates not exceeding those set forth in the recorded statement hereinbefore provided for: *Provided*, that such company shall have a right to require one-half of each freight bill, or of the fare for each trip, to be paid in cash, and that the remainder only shall be credited thereon until the amount due and unpaid shall be less than one-eighth thereof, after which such holder shall be entitled to freight or passage to an amount equal to the balance due thereon until the same is all paid, when it shall be delivered up to said company, and the rights of such holder thereunder shall cease: *Provided, further*, that no assignment of any such certificate shall create any other or greater liability in the assignor than is expressly created by such assignment. (R. S. 1889, § 2553—h.)

SEC. 1046. Correct record of certificates issued to be kept—shall show what.—Every railroad company taking subscriptions under this article shall keep in its principal office in this state, open to inspection, a correct record of all such certificates of stock issued by them or their assignor or predecessor, showing the number, date, and to whom issued, and when canceled; and it shall be the duty of the county clerk, upon production by such company of any such canceled certificate, to note the fact and date of such cancellation in his office. (R. S. 1889, § 2554.)

SEC. 1047. Who ineligible to office.—It shall be unlawful to elect or appoint any person to any office of profit or trust, or for such person to hold such office or appointment, in any railroad corporation established by any law of this state, who is a stockholder, owner or part owner of any express, dispatch, fast freight or transportation company, whether incorporated or not, which has for its object, or one of its objects, the shipment of freight or transportation of persons over said railroad, or any railroad in direct connection therewith, or who is in any way pecuniarily interested in any company or copart-

(g) 41 A. 596, 679.

(h) 65 A. 459.

nership formed for any such or like purpose; and all persons interested as aforesaid are hereby declared ineligible for any such office or appointment. (R. S. 1889, § 2555.)

SEC. 1048. Penalty for holding office in violation of the preceding section.—If any person shall be elected to any office or appointed to any position in violation of the preceding section, and shall hold any such office or appointment, he shall forfeit and pay the sum of one hundred dollars for each and every day that he shall exercise the functions of said office, which amount may be recovered at the suit of any stockholder of the company in which the office or appointment shall be unlawfully held. Such suit shall be in the name of the company, and one-half of the amount received shall go into the treasury of the company, and the other half to the stockholder prosecuting. (R. S. 1889, § 2556.)

SEC. 1049. Capital stock may be reduced, when and how.—Any railroad company incorporated by the laws of this state may at any time reduce the amount of their capital or common stock by a vote of three-fifths in interest of all the stock of such company to be affected thereby, at a stockholders' meeting, called in conformity to the by-laws of such company; and if so voted for, said capital stock may be reduced upon the plan in detail thus submitted to the stockholders: *Provided*, that such reduction shall be so made as to affect the interest of all stockholders alike: *Provided*, that nothing in this section shall be so construed as to permit the reduction of the capital stock of any company below the minimum amount prescribed by law. (R. S. 1889, § 2557.)

SEC. 1050. Preferred stock may be issued, when.—Any railroad company organized under the laws of this state may issue a preferred stock for such amount, and upon such terms and conditions, as the board of directors may prescribe. But before any issue of such preferred stock shall be made, the question of issuing the same, together with the terms, conditions and privileges upon which the same is proposed to be issued, shall be submitted to a vote of the stockholders of said company, at a regular annual election for the directors thereof, or at a special meeting of the stockholders of said company called to consider the same, if at such election all the stockholders shall consent. At all elections called to consider the question of issuing preferred stock, as provided in this section, no person shall be permitted to cast any vote as a proxy for the owner of any share or shares of stock without he shall produce written authority, signed by the owner thereof, and duly acknowledged before some officer having authority to take the acknowledgment of deeds; and a record of such authority showing the name of the owner of the stock, and the name of the person casting such vote in his behalf, shall be entered upon the records of the company in a book to be kept for that purpose; *and it is also further provided*, that when a dividend of ten per cent. per annum shall have been declared upon the preferred stock of any company, issued in pursuance of this section, then all other dividends shall be declared and distributed pro rata until the dividends on the common stock shall equal the dividends on the preferred stock, among all the stockholders of such corporation; *and provided further*, that nothing contained in this section shall be so construed as to give the holders of the preferred stock herein provided for any other or greater power in the control and management of any corporation, or in the election of the officers thereof, than is exer-

cised by the owners of the original or common stock of such company. Said preferred stock shall be offered to all the common stockholders *pro rata* in proportion to the amount of common stock held by them. If any common stockholder shall fail to take such preferred stock after thirty days' notice by publication in two daily newspapers in St. Louis, and written notice to clerks of counties holding stock, then any other person may buy said stock. (R. S. 1889, § 2558.)

SEC. 1051. Road-bed may be changed—gauge.—The directors of any railroad company heretofore incorporated under any general or special law, or that may hereafter be organized under the provisions of this article, may, by a vote of two-thirds of their whole number, at any time change their road-bed, or road-line, or any part thereof, for the purpose of shortening the line or to overcome natural objections thereto, or to secure economy in its construction; and when the capital stock of such company subscribed, and the amount paid thereon, shall be equal to or exceed the amount per mile, including the proposed extension, which, by section 1036, is required to be subscribed and paid before filing the original articles of association, then such company may, by a like vote of its directors, at any time extend its line or road-bed from either terminus named in its original charter to such other point as shall be named in such proceedings of such company. And whenever the business of any railroad company which may have heretofore organized or which may hereafter organize to construct a railroad of any gauge may demand a change of the gauge thereof, or whenever for other causes such change of gauge may become necessary or desirable, such company may, by a like vote of its directors, change its gauge, if a narrow, to a broad or standard, and if a broad or standard, to a narrow gauge railroad: *Provided*, that if such railroad desiring such change of gauge be a narrow gauge railroad, such change of gauge shall not be made unless the capital stock of said company shall be at least ten thousand dollars per mile of such road constructed, or shall be increased in the manner provided in this chapter to such sum, nor unless there shall be subscribed in good faith at least one thousand dollars per mile of such road constructed or proposed to be constructed, and five per cent. thereon paid in cash, nor until such company shall pay into the state treasury the sum of five dollars for every ten thousand dollars of increased capital stock made necessary by such change of gauge. Such proceedings in relation to the extension of their road shall be entered on the record of the company, and a copy of such proceedings, with an affidavit as required by section 1036 indorsed thereon, shall be filed in the office of the secretary of state, and by him recorded and certified as the original articles of association. But nothing contained in this article shall be so construed as to authorize such company to change the general route of their line or road-bed, or to avoid running their road through any point named in the original articles of association, or either terminus named therein, or to change the last established terminus except by extension of their road as aforesaid. (R. S. 1889, § 2559—i.)

SEC. 1052. Right of way through state lands.—The right of way is hereby granted to any railroad company through any unimproved land belonging to this state, through which their railroad may pass; and in case any more land belonging to this state shall be re-

(1) This section relied on in return to writ of *mandamus* and return held sufficient. 80 Mo. 117. Duty of company to run trains, remedy by *mandamus*. 77 Mo. 143.

quired for the purpose of any railroad corporation than is needed for the track of the road, and in case any improved land belonging to the state shall be necessary for the purpose of any railroad corporation, the secretary of state shall have power to grant to any railroad company any land belonging to this state which may be required for the purposes of their road, on such terms as may be agreed on between said secretary of state and said company; or such company may acquire title thereto by appraisal, as in the case of land owned by individuals; and if any land belonging to a county, city or town is required by any company for the purposes of their road, the county or city or town officers having charge of such land may grant to such company, on such terms as may be agreed upon, or the land may be appraised in the manner aforesaid. (R. S. 1889, § 2560—j.)

SEC. 1053. Title to lands of persons not sui juris, how acquired.—In case any title or interest in real estate required by any company formed under this article for the purpose of its incorporation shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the circuit court shall have power by a summary proceeding on petition to authorize and empower such trustee, or the court having probate jurisdiction, or the special guardian of such infant, idiot or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot or person of unsound mind is not in charge of said court or guardian, the said court may appoint a special guardian for the purpose of making such sale, release or conveyance, and may require such security from such special guardian as said court may deem proper. But before any conveyance or release, authorized by this section, shall be executed, the terms on which the same is to be executed shall be reported to the court on oath; and if the court is satisfied that such terms are just to the parties interested in such real estate, the court shall confirm the report and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land, having legal power to sell and convey the same. (R. S. 1889, § 2561.)

SEC. 1054. School lands, how title acquired.—In all cases when it becomes necessary for any railroad company to acquire title to any unsold sixteenth section, or other school lands, required for the purposes of the incorporation, it shall be lawful in proceedings instituted by such railroad company to acquire title thereto, to notify the county school commissioner of the county in which such land, or the greater part thereof, is situate; or, if there be no such commissioner qualified to act, then such notice may be served upon the presiding justice of the county court of the county in which such land, or the greater part thereof, is situate; and like proceedings shall be had as in other cases. (R. S. 1889, § 2562.)

SEC. 1055. May take and hold lands for side-tracks and depots.—Any railroad company in this state shall have the right to take and hold all necessary ground for depots and side-tracks, and if the title thereof cannot be secured by agreement with the owners thereof, or if from any other cause the title may not be secured, such company may proceed to condemn the same, in the same manner and

with the same effect as is now provided by law for the condemnation of other lands. (R. S. 1889, § 2563—k.)

SEC. 1056. Shall file profile maps, when.—Every railroad company shall, before constructing any part of their road into or through any county named in their articles of association, and every company heretofore formed and now operating roads in any county in this state, shall make a profile map or maps of the route intended to be or already adopted by such company in such county, which map or maps shall show the actual survey, location and distance of the road-bed through the congressional sections through which such road runs, and also the location and number of miles of main and side-tracks of such road in such county, and which map or maps shall be certified by the president and engineer of the company or a majority of the directors, and filed in the office of the clerk of the county court of the county in which the road is to be or has been made. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated, and which has not been purchased by or given to the company. (R. S. 1889, § 2564—l.)

SEC. 1057. Company liable to sub-contractors, laborers, etc., when.—Whenever any contractor for the construction of any part of a railroad which is in process of construction, or any contractor for the repairing of any part of a railroad, shall be indebted to any sub-contractor or laborer, or other person, who shall do or perform any work or labor upon or furnish any materials for said road, such sub-contractor or laborer, or other person may give notice of such indebtedness to said company in the manner hereinafter provided; and said company shall thereupon become liable to pay such sub-contractor or laborer, or other person, the amount so due, and action may be maintained against said railroad therefor; such notice shall be given by said sub-contractor, laborer or other person, within twenty days after the performance of the labor or work, or the delivery of the materials, for which the claim is made; such notice shall be in writing, and shall state the amount and number of days' labor or work, and the amount, description and quantity of materials furnished and the time when the said labor or work was performed, and the time when the said materials were furnished, for which the claim is made, and the name of the contractor from whom due, and shall be signed by such sub-contractor, laborer or other person, or their attorney, and shall be served on an engineer, agent or other person employed by said company having charge of the section of the road on which said labor or work was performed, or such material furnished, personally, or by leaving said notice in the office or usual place of business of such engineer, agent or person having charge, with some person over fifteen years of age; but no action shall be maintained against any company under the provisions of this section, unless the same be commenced within ninety days after notice is given to the company by such sub-contractor or laborer, as above provided. (R. S. 1889, § 2565—m.)

(k) 135 Mo. 646.

(l) 113 Mo. 458; 135 Mo. 556.

(m) Statute construed. 76 Mo. 161. 60 Mo. 290; 57 Mo. 304. Service upon agent of foreign railroad company, service upon company. 76 Mo. 161. All interested companies need not be made parties. 76 Mo. 161. As to subrogation of sub-contractors. 55 A. 107. Establishment of lien for materials furnished. 59 A. 8. Sufficiency of evidence as to authority to contract. 59 A. 6; 52 A. 516; 62 A. 677; 111 Mo. 329; 112 Mo. 463.

SEC. 1058. May take material for construction, when and how.—Any company shall have power, by themselves or agents, to enter and take from any land in the neighborhood of the line of their railroad, earth, gravel, stone, wood, water, or other material necessary for the construction and operation of said road, and also for the purpose of depositing thereon earth, stone, gravel, etc., and for the purpose of procuring water for their uses; may lay pipes, erect pumps, dams and reservoirs, and maintain and keep the same in repair, paying, if the owner of said lands and the said company can agree, the damages they shall do to said land or its appurtenances; or, if they cannot agree, then said company, before entering upon the land, shall apply to a justice of the peace of the county for the appointment of three commissioners, who shall be freeholders and disinterested, to ascertain the amount of the damages, who, being duly sworn by the justice impartially and faithfully to discharge the duties devolving on them, shall then ascertain the compensation, upon their own view of the grounds, and of the wood, earth, stone or gravel which may be taken therefrom, or the earth, stone, gravel, etc., that may be deposited thereon, and the injury done in taking them, or depositing thereon: *Provided*, that it shall be the duty of the party making the application to show to the justice of the peace that ten days' previous notice of the time of making the same has been given to the other party, or to some one of them; and no award which may be given under any appointment, without such notice, shall be obligatory or binding on the other party; and either party not satisfied with the award may appeal to the circuit court of the county in which said land may be, which may, at its discretion, confirm the said award and enter it of record, or, as often as may be deemed necessary, may supercede the said viewers, or any of them, appoint others in their stead, and direct another view and award to be made in the manner aforesaid. If any justice of the peace, or any freeholder, shall refuse or neglect to perform the duties assigned to them, respectively, or prescribed in this section, upon being thereto required by either party, as aforesaid, such justice or freeholder shall forfeit and pay to the party making the application a sum not exceeding twenty-five dollars, to be recovered before any justice of the peace of the county of which he is an inhabitant, and shall, moreover, be liable to the party aggrieved: *Provided*, that no property shall be entered upon or disturbed, or the title divested under the provisions of this section, until the amount assessed by the commissioners or the circuit court shall be paid to such land owner, or deposited with the justice, or in court or with the clerk thereof, for such owners. (R. S. 1889, § 2566—n.)

SEC. 1059. Companies may consolidate, when.—Any two or more railroad companies in this state, existing under either general or special laws, and owning railroads constructed wholly or in part, which, when completed and connected, will form in the whole or in the main one continuous line of railroad, are hereby authorized to consolidate in the whole or in the main, and form one company owning and controlling such continuous line of road, with all the powers, rights, privileges and immunities, and subject to all the obliga-

(n) Condemnation of land against owner's consent exacts strict compliance with statute. 89 Mo. 61; 61 Mo. 33; 51 Mo. 200. No waiver of trial by jury to ask appointment of commissioners; demand for jury may be made, when. 106 Mo. 458. Right of action for damages survives to representative of deceased. 114 Mo. 309; 101 Mo. 484; 124 Mo. 544.

tions and liabilities to the state, or otherwise, which belonged to or rested upon either of the companies making such consolidation. In order to accomplish such consolidation, the companies interested may enter into contract fixing the terms and conditions thereof, which shall first be ratified and approved by a majority in interest of all the stock held in each company or road proposing to consolidate, at a meeting of the stockholders regularly called for the purpose, or by the approval, in writing, of the persons or parties holding and representing a majority of such stock. A certified copy of such articles of agreement, with the corporate name to be assumed by the new company, shall be filed with the secretary of state, when the consolidation shall be considered duly consummated, and a certified copy from the office of the secretary of state shall be deemed conclusive evidence thereof. The board of directors of the several companies may then proceed to carry out such contract according to its provisions, calling in the certificates of stock then outstanding in the several companies or roads, and issuing certificates of stock in the new consolidated company, under such corporate name as may have been adopted: *Provided, however*, that the foregoing provisions of this section shall not be construed to authorize the consolidation of any railroad companies or roads, except, when by such consolidation a continuous line of roads is secured, running in the whole or in the main in the same general direction; and *provided*, it shall not be lawful for said roads to consolidate in the whole or in part, when by so doing it will deprive the public of the benefit of competition between said roads. And in case any such railroad companies shall consolidate or attempt to consolidate their roads contrary to the provisions of this article, such consolidation shall be void, and any person or party aggrieved, whether stockholder or not, may bring action against them in the circuit court of any county through which such road may pass, which court shall have jurisdiction in the case and power to restrain by injunction or otherwise. And in case any railroad in this state shall hereafter intersect any such consolidated road, said road or roads shall have the right to run their freight cars without breaking bulk upon said consolidated road, and such consolidated road shall transact the business of said intersecting or connecting road or roads on fair and reasonable terms. Before any railroad companies shall consolidate their roads, under the provisions of this article, they shall each file with the secretary of state a resolution accepting the provisions thereof, to be signed by their respective presidents and attested by their respective secretaries, under the seal of their respective companies, which resolution shall have been passed by a majority vote of the stock of each, at a meeting of the stockholders to be called for the purpose of considering the same, sixty days' public notice of the time, place and purpose of such meeting having been given by advertisement in some newspaper printed in the county where the general offices of said company or companies of this state are situated. (R. S. 1889, § 2567—o.)

SEC. 1060. May aid other railroads, on what terms.—Any railroad company heretofore incorporated or hereafter organized in pursuance of law, may, at any time, by means of subscription to the capital stock of any other railroad company, or otherwise, aid such company in the construction of its railroad within or without the

(o) Consolidation of roads. 106 Mo. 594; 69 Mo. 150; 66 Mo. 228; 39 A. 674. Courts will not take judicial notice of consolidation. 61 Mo. 89. Also 99 Mo. 30; 135 Mo. 252. Effect of. 145 Mo. 322.

state, for the purposes of forming a connection of the last mentioned road with the road owned by the company furnishing such aid, or any such railroad company which may have built its road to the boundary lines of the state may extend into the adjoining state, and for that purpose may build, buy, lease or consolidate, in the manner provided in the preceding section, with any railroads in such adjoining state, and operate the same, and may own such real estate and other property in such adjoining state as may be convenient in operating such road; or any railroad company organized in pursuance of the laws of this or any other state, or of the United States, may lease or purchase all or any part of a railroad, with all its privileges, rights, franchises, real estate and other property, the whole or a part of which is in this state, and constructed, owned or leased by any other company, if the lines of the road or roads of such companies are continuous or connected at a point either within or without this state, upon such terms as may be agreed upon between said companies respectively; or any railroad company duly incorporated and existing under the laws of any state of the United States may extend, construct, maintain and operate its railroad into and through this state, and for that purpose shall possess and exercise all the rights, powers and privileges conferred by the general laws of this state upon railroad corporations organized thereunder, and shall be subject to all the duties, liabilities and provisions of the laws of this state concerning railroad corporations, as fully as if incorporated in this state: *Provided*, that no such aid shall be furnished, nor any purchase, lease, sub-letting or arrangements perfected until a meeting of the stockholders of said company or companies of this state, party or parties to such agreement, whereby a railroad in this state may be aided, purchased, leased, sublet, consolidated or affected by such arrangements, shall have been called by the directors thereof, at such times and places and in such manner as they shall designate, sixty days' public notice thereof having been previously given and the holders of a majority of the stock of such company in person or by proxy, shall have assented thereto, or until the holders of a majority of the stock of such company shall have assented thereto, in writing, and a certificate thereof, signed by the president and secretary of said company or companies, shall have been filed in the office of the secretary of state; *and provided further*, that if a railroad company of another state shall lease a railroad, the whole or a part of which is in this state, or make arrangements for operating the same as provided in this act, or shall extend its railroad into this state, or through this state, such part of said railroad as is within this state shall be subject to taxation, and shall be subject to all regulations and provisions of law governing railroads in this state; and a corporation in this state leasing its road to a corporation of another state, or licensing or permitting a corporation of another state, under any running arrangement, to run engines and cars upon its road in this state, shall remain liable as if it operated the road itself; and a corporation of another state, being a lessee of a railroad in this state, or running its engines and cars upon a railroad in this state under a license, permit or running arrangement, shall likewise be held liable for the violation of any of the laws of this state, and may sue and be sued in all cases and for the same causes and in the same manner as a corporation of this state might sue or be sued if operating its own road; but a satisfaction of any claim or judgment by either of said corporations shall discharge the other; and a corporation of another state, being the lessee as aforesaid, or extending

its railroad as aforesaid into or through this state, shall establish and maintain an office or offices in this state, at some point or points on the line of the road so leased or constructed and operated, at which legal process and notice may be served as upon railroad corporations of this state. (R. S. 1889, § 2568—p.)

SEC. 1061. May acquire other lines — assent of stockholders necessary.—Any railroad company heretofore organized, or which may hereafter be organized under the laws of this state, may extend its line of railroad beyond this state into or through any other state or territory, and may acquire any line of railroad within or without this state which shall form a continuous line with the road operated by such company, by direct connection or over any other line or lines constructed, or to be constructed, and which such company shall have the right, by contract or otherwise, when completed, to use or operate, and may acquire and may hold the obligations and stock of other companies owning or operating any such lines of road: *Provided*, that no line of railroad shall be so purchased until a meeting of the stockholders of such company or companies of this state, party or parties to such an agreement, whereby a railroad in this state may be purchased, shall have been called by the directors thereof, at such times and places and in such manner as they shall designate, sixty days' due notice thereof having been previously given, and the holders of a majority of such stock, by person or proxy, shall have assented thereto, or until a majority of the holders of the stock of such company shall have consented thereto, in writing, and a certificate thereof, signed by the president and secretary of said company or companies, shall have been filed in the office of the secretary of state: (Laws 1897, p. 94.)

SEC. 1062. Consolidation with competing line forbidden.—It shall be unlawful for any railroad company, corporation or individual owning, operating or managing any railroad in the state of Missouri, to enter into any contract, combination or association, or by any manner of means whatever consolidate the stock, property or franchises of such company, corporation or individual, or to lease or purchase the works or franchises of, or in any way whatever to any degree exercise control over, any railroad company, corporation or individual owning or having under his or their control or management a parallel or competing line in this state, but each and every such railroad, whether owned, operated or managed by a company, corporation or individual, shall be run, operated and managed separately by its own officers and agents, and be dependent for its support on its own earnings from its local and through business in connection with other roads, and the facilities and accommodations it shall afford the public for travel and transportation under fair and open competition. (R. S. 1889, § 2569—q.)

SEC. 1063. No person shall be an officer in the competing lines.—It shall be unlawful for any officer of any railroad company or corporation, or any individual owning, operating or managing any railroad in this state as a common carrier, to act as an officer of any other railroad company or corporation owning, operating or man-

(p) Power to build branch roads construed. 66 Mo. 288. Effect as to liability of corporation of this state leasing its road to corporation of another. 13 A. 388; 27 A. 394. Action may begin against either lessee or lessor for injuries on railroad operated by lessee. 61 Mo. 17. Also 113 Mo. 600; 135 Mo. 201.

(q) 135 Mo. 266.

aging, or having the control of a parallel or competing line, and the question whether railroads are parallel or competing lines shall be decided by a jury, when so demanded. (R. S. 1889, § 2570—r.)

SEC. 1064. Commissioners shall demand report as to violation of two preceding sections.—It shall be the duty of the railroad commissioners of this state, within thirty days after the approval of this act, and semi-annually thereafter, to make a written demand of the president or other chief officer of each and every railroad company, corporation or individual owning, operating or managing any railroad in this state, requiring such president or other chief officer or individual so owning, operating or managing any such railroad, within thirty days after the date of such demand, to make out or cause to be made out under oath, and delivered to said commissioners, a full and correct list of the names of all the officers of such railroad company or corporation, and also certified copies of all contracts which such railroad company, corporation or individual may have entered into with any other railroad company, corporation or individual owning, operating or managing any railroad in this state, and that are in force relative to the terms and conditions upon which such railroad companies, corporations or individuals would carry on and transact their business in this state as common carriers. And it shall further be the duty of said commissioners, within the time above specified, or as speedily thereafter as may be, to thoroughly investigate by every means at their command, and ascertain if possible, whether any such contract, combination or association as is prohibited by section 1062 exists, or whether the provisions of section 1063 are being violated in any manner, and for such purposes they shall have and may exercise all the powers conferred on them by this or any other statute of this state, and all copies of contracts that may be furnished in compliance with the demand so made by said commissioners, and any and all information which said commissioners may obtain relative to the violations of sections 1062 or 1063 shall be immediately delivered and imparted to the attorney-general of this state, and any president or other chief officer upon whom was made such demand as is hereinbefore specified, who shall fail, neglect or refuse to comply therewith, or who shall, in compliance with such demand, furnish any false or fraudulent contract, or who shall, under oath, furnish an incomplete or incorrect list of such officers as required by this act, shall, for so failing, neglecting or refusing to comply herewith, be guilty of a misdemeanor, and upon conviction thereof be fined not less than two hundred and fifty nor more than one thousand dollars, and for furnishing any false or fraudulent contract, or for making a false affidavit as to the list of the names of the officers, any such person so offending shall be guilty of a felony, and upon conviction thereof shall be confined in the penitentiary not less than two nor more than five years. (R. S. 1889, § 2571.)

SEC. 1065. Duty of attorney-general under preceding section.—It shall be the duty of the attorney-general at once, upon receipt of the copies of such contracts, and the information imparted by the railroad commissioners, to carefully examine said contracts and consider such information, and if he shall therefrom, or from any other source, have reason to believe that any railroad company, corporation or individual, as designated in section 1062, has entered into

any such contract, combination, association or agreement as is therein declared to be unlawful, or that the provisions of section 1063 are in any manner being violated, and that a recovery can be had therefor, to immediately institute such proceedings in any of the courts of this state having jurisdiction over the subject-matter, as may be necessary to enforce the provisions of this act; and such proceedings, if against any company, corporation or individual for a violation of the provisions of section 1062 herein, shall be instituted in the name of the state of Missouri, at the relation of the attorney-general, and may be against any one or more, or jointly against all the companies, corporations or individuals so offending, and if such proceedings are instituted for a violation of the provisions of sections 1063 or 1064, then they shall be proceeded with as in other cases of misdemeanors or felonies, and may be against any one or more, or jointly against all persons so offending; and all suits or prosecutions instituted under the provisions of this act shall have precedence except as to criminal cases, and shall be advanced on the docket by all the courts in which such proceedings shall be pending, and be disposed of as speedily as possible. (R. S. 1889, § 2572.)

SEC. 1066. Penalties for violating sections 1062 and 1063—forfeiture of franchise.—Each and every railroad company, corporation or individual violating the provisions of section 1062, shall for the first offense, be liable in the penal sum of not less than one thousand dollars nor more than five thousand dollars, and for the second offense shall be liable in the penal sum of not less than five thousand nor more than ten thousand dollars, and a conviction of a third offense, under the provisions of this act, for a violation of the provisions of section 1062, shall work a forfeiture of the franchise of each and every company, corporation or individual so convicted, having received a charter under the laws of this state, as for a willful misuser thereof, and if chartered under the laws of some other state, then all the rights and privileges of doing business in this state under the laws thereof as a common carrier shall cease and terminate, and the court before which the cause is tried shall render such judgment or decree as may be necessary and sufficient to enforce the provisions of this section for all purposes. Any officer or individual who shall violate the provisions of section 1063 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred nor more than five thousand dollars for each offense, and each day that such person shall continue to act as an officer of such railroad company or corporation owning, operating, managing or having control of a parallel or competing line, after the first conviction under this act, shall constitute a separate offense, and in every case of a conviction under this act, the company, corporation, individual or officer so offending shall be liable for all costs, including reasonable fees for any attorney or attorneys who may be employed to assist the attorney-general, as hereinafter provided, and such fees shall be allowed by the court trying the cause, and shall be taxed up as a part of the costs in the cause. (R. S. 1889, § 2573.)

SEC. 1067. Duty of governor, upon forfeiture of franchise.—When a judgment or decree shall be rendered against any railroad company, corporation or individual upon a third conviction for violating the provisions of section 1062, a certified copy of such judgment or decree shall at once (unless such cause be appealed to some

higher tribunal) be made out by the proper officer, and forwarded to the governor of the state of Missouri, who shall thereupon appoint some suitable and competent person to take charge of the assets of such company, corporation or individual, for the use of the creditors and stockholders, upon such terms, conditions and requirements as is now or that may hereafter be provided by law. (R. S. 1889, § 2574.)

SEC. 1068. Costs of procedure.—The actual and necessary costs incurred by the commissioners and attorney-general, in preparing and prosecuting cases under this act, including the fees of such assistant counsel as they may consider it prudent to employ, shall be paid out of the state treasury upon a warrant to be drawn therefor by the railroad commissioners and countersigned by the governor: *Provided, however,* that no costs shall be incurred without the advice and consent of the governor; *and provided also,* that no greater sum than five thousand dollars shall be expended in any one year in endeavoring to enforce the provisions of this act; and for the purposes aforesaid there is hereby appropriated out of the general revenue fund not otherwise appropriated, such an amount as may be requisite, not exceeding the sum of ten thousand dollars. (R. S. 1889, § 2575.)

SEC. 1069. Penalties to go to state school fund.—All fines and penalties recovered under this act shall be paid into the state treasury, and credited to the state school fund. (R. S. 1889, § 2576.)

SEC. 1070. Directors shall hold meetings and report to railroad commissioners, when—report shall be furnished governor—shall contain what.—The directors of every railroad company or corporation which is now or hereafter may be organized under the laws of this state, shall hold a meeting on the second Tuesday in March of each year, for the transaction of such business as may properly come before them, at their office or place of business which shall have been established in this state—thirty days' notice having been given by publication in two or more newspapers having the greatest circulation in the county or city in which the office of such railroad company or corporation shall be situated. The general manager or other chief officer of every such company or corporation, and the manager or other chief officer of every railroad company or corporation organized under the laws of another state, and owning, leasing, operating or controlling a railroad within this state, shall, on or before the 1st day of September of each year, transmit to the office of the railroad and warehouse commissioners of this state a statement in detail of the affairs of such company or corporation as the same existed on the 30th day of June first preceding, and of the business operations of such company or corporation for the year ending the 30th day of June, as aforesaid. Said statements must be certified to under oath of the proper officer of said company or corporation, and must be made out upon printed forms, furnished by the railroad and warehouse commissioners, which printed forms shall contain all interrogatories necessary to obtain a full statement, in detail, of the organization, condition, business affairs and operations of such railroad company or corporation for the year ending the 30th day of June, as aforesaid. The railroad and warehouse commissioners shall, on or before the 31st day of December of each year, transmit to the governor of this state a report of their official acts for the year ending on the 30th day of June, as aforesaid; and the said report shall also contain a condensation of statistics, tabulated from the returns of the several railroad companies,

together with all such information and recommendations concerning the regulation of the railroads of this state as the said commissioners may deem to be of public interest and importance. (R. S. 1889, § 2577, amended, Laws 1893, p. 126.)

SEC. 1071. Penalty for violation of preceding section. The directors of any such railroad company who shall fail to hold such meeting, or neglect to make such report, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than two hundred and fifty nor more than one thousand dollars. (R. S. 1889, § 2578.)

SEC. 1072. Employes to wear badges of identity.—Every conductor, baggage-master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property. (R. S. 1889, § 2579.)

SEC. 1073. Interest account with stockholders to be kept.—Any railroad company may open and keep an interest account with their stockholders, from the dates of their payments on their subscription, respectively; and, in order to place all their stockholders on an equal footing, may allow interest from the dates of such payments, payable in stock, for such time and under such regulations as the board of directors may prescribe. (R. S. 1889, § 2580.)

SEC. 1074. Ejection of passengers, when lawful.—If any passenger shall refuse to pay his fare, or shall behave in an offensive manner, or be guilty of repeated violations of the rules of the company, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductors shall elect, on stopping the train. (R. S. 1889, 2581—s.)

(s) Behavior. 43 A. 536. Purchaser of ticket acquires right to ride, subject to reasonable regulations of the company. 19 A. 432. Ejectment of passenger from train. 55 Mo. 201; 64 Mo. 464; 66 Mo. 588; 77 Mo. 663; 115 Mo. 127; 15 A. 584; 19 A. 432; 21 A. 399; 22 A. 356; 51 A. 491; 61 A. 303, 586; 77 A. 196. Measure of damages. 41 A. 298; 56 A. 664; 61 A. 303. What constitutes a passenger. 56 A. 664. What constitutes a trespasser. 124 Mo. 223. Duty of company in its treatment of passengers. 21 A. 399. Right of railroad company to determine at what stations trains shall stop; public must accommodate itself to such regulations. 115 Mo. 127; but where it undertakes to carry passenger to particular station, actionable wrong committed in requiring such passenger to leave train before destination. *Id.* Railroad company may use separate trains for freight and for passengers and may exclude freight from one and passengers from another. 99 Mo. 263. Rule as to care and skill to be exercised by common carriers in transportation of passengers. 76 Mo. 282; 83 Mo. 608; 94 Mo. 255; 106 Mo. 482, 535; 108 Mo. 243; 118 Mo. 199; 127 Mo. 197; 130 Mo. 27; 133 Mo. 1; 57 A. 320; 76 A. 601. Freight trains—passengers—care required. 89 Mo. 233; 97 Mo. 512; 98 Mo. 168; 99 Mo. 263; 111 Mo. 335; 124 Mo. 223; 51 A. 438, 491; 53 A. 462; 56 A. 664; 64 A. 655. Release by agreement restricted to perceptible injuries. 130 Mo. 27. Duty of company to stop its cars long enough for passengers to get on and off cars. 60 A. 274. To furnish sufficient accommodations for

SEC. 1075. Notice of train time published—depots at junctions.—Every railroad corporation in this state which now is or may hereafter be, engaged in the transportation of passengers or property, shall give public notice of the regular time of starting and running its cars, and shall furnish sufficient accommodations for the transportation of all such passengers, baggage, mails and express freight as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting, at the junctions of other railroads, and at the several stopping places; and shall, at all crossings and intersections of other railroads, where such other railroad and the railroad crossing the same are now or may hereafter be made upon the same grade, and the character of the land at such crossing or intersection will admit of the same, erect, build and maintain, either jointly with the railroad company whose road is crossed, or separately by each railroad company, a depot or passenger house and waiting room or rooms sufficient to comfortably accommodate all passengers awaiting the arrival and departure of trains at such junctions or railroad crossings, and shall keep such depot or passenger house warmed, lighted and open to the ingress and egress of all passengers a reasonable time before the arrival and until after the departure of all trains carrying passengers on said railroad or railroads; and they are hereby required to stop all trains carrying passengers, at the junction or intersection of other railroads, a sufficient length of time to allow the transfer of passengers, personal baggage, mails and express freight from the trains of railroads so connecting or intersecting; or they may mutually arrange for the transportation of such persons and property over both roads without change of cars; and they shall be compelled to receive all passengers and freight from such connecting or intersecting roads whenever the same shall be delivered to them. Every railroad corporation or company which shall fail, neglect or refuse to comply with any or either one of the provisions of this section from and after the first day of July, 1885, shall, for each day said corporation or railroad refuses, neglects or fails to comply therewith after said day, forfeit and pay a sum of twenty-five dollars, which may be recovered in the name of the state of Missouri, to the use of the school fund of the county wherein said crossing is situate; and it shall be the duty of the prosecuting attorney to prosecute for and recover the same. (R. S. 1889, § 2582—t.)

SEC. 1076. Passenger trains—change of time—notice to be given.—Whenever any such railroad corporation may wish to change the time of running its passenger trains, due notice shall be

transportation of passengers. 40 Mo. 491. Duty to furnish waiting room, etc.—statute construed. 33 Mo. 144. Liability for failure to provide reasonable accommodations. 73 A. 203. Want of proper appliances, no excuse for failure to ship. 50 Mo. 335; 51 Mo. 311. Shipment of stock; measure of damages. 66 A. 388. May decline to receive freight, when. 51 Mo. 311; 13 A. 159; 66 A. 388. When freight is received it must be forwarded without delay. 62 Mo. 527; 74 Mo. 364; 89 Mo. 340; 91 Mo. 152; 126 Mo. 69; 62 A. 252. Railroads accepting goods from another line thereby assumes all liabilities under the contract of first carrier. 74 Mo. 159; 126 Mo. 69. Liability beyond line. 68 Mo. 268; 126 Mo. 69; 133 Mo. 59; 44 A. 416, 421; 56 A. 282, 476; 64 A. 144; 65 A. 167; 77 A. 619. Passenger carried beyond destination is entitled to compensatory damages. 74 Mo. 147. Legislative requirement for erecting waiting rooms at railroad crossing a proper exercise of police power. 33 Mo. 144. This section does not require trains to be stopped at junction, unless passenger desires to be transferred. 77 Mo. 663.

(t) 49 A. 104; 59 A. 239, 410; 83 Mo. 144; 77 Mo. 663; 74 Mo. 159; 51 Mo. 311.

given to the proper officer of other connecting railroads of the time when trains will arrive and depart at such points of intersection or connection, to enable such other railroad companies to conform the running of their trains thereto. (R. S. 1889, § 2583.)

SEC. 1077. Bulletin boards at stations.—Every railroad corporation in this state, which is or may hereafter be engaged in the transportation of passengers, shall place or cause to be placed in a conspicuous place in or about each and every depot at which passengers shall be received, a bulletin board showing the time of the arrival and departure of all passenger trains at such stations; and at all stations or depots where a telegraph office is kept, the agent or telegraph operator at such station or depot shall, for the information of the traveling public, indicate on such bulletin board the delay of any passenger train, showing how much such train may be behind schedule time. (R. S. 1889, § 2584—u.)

SEC. 1078. Id. Penalty on agent for failure to put up boards.—Any agent or telegraph operator of any such railroad corporation who shall violate the provisions of the proceeding section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five nor more than twenty-five dollars. (R. S. 1889, § 2585.)

SEC. 1079. Freight accounts to be kept—books, how and when produced.—All railroad companies in this state shall keep correct accounts of the time at which any freight is received for shipment and shall transport the same in its proper time; and when, in the trial of any cause in any court, a party shall be entitled to have produced at such trial the books and papers of the company, including the receipt and freight-books, as well as the account of the shipments of such company, he shall have access to such books and papers as may be necessary, when authorized by an order of court, as is now provided in other civil cases. (R. S. 1889, § 2586.)

SEC. 1080. Not liable for injury to passenger, when.—In case any passenger on any railroad shall be injured while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury: *Provided*, said company, at the time, furnished room inside its passenger cars sufficient for the proper accommodation of the passengers. (R. S. 1889, § 2587—v.)

SEC. 1081. Companies may contract with each other, etc.—All railroad corporations may contract with each other, or with other corporations, in any manner not inconsistent with the scope, object and purpose of their creation and management. (R. S. 1889, § 2588—w.)

SEC. 1082. Duties as to receipt and shipment of freight. Every such railroad corporation is hereby required to receive all freight or live stock which may be offered for transportation at the place of starting, at the junction of other roads, and at usual stopping places, and shall take, transport and deliver the same, without unnecessary delay, according to contract. (R. S. 1889, § 2589.)

(u) 69 A. 428.

(v) 43 A. 342; 67 A. 111.

(w) Power to contract with ferry companies, etc., construed. 73 Mo. 389; 128 Mo. 224. Power to contract with each other. 61 A. 303. One company may delegate power to another to operate its line. 135 Mo. 173.

SEC. 1083. Car regulations for shipping stock.—All corporations, private companies or individuals owning or operating any railroad in this state are required to furnish to shippers of live stock suitable and convenient stock cars, without unreasonable delay, with trap doors in the roof thereof, one near each end and upon opposite sides, large enough to conveniently admit a man's body; said trap doors shall be constructed near enough to the sides of the car to enable the shipper to conveniently descend to the interior of said car by means of a ladder or steps, which shall be constructed directly under such door. Such railroad company shall receive live stock for transportation to any place within the state; shall transport and deliver the same to any consignee, stock-yard or place to whom or to which it may be consigned and directed: *Provided*, such person, stock-yard or place can be reached by any track owned, leased or used, or which can be used by such corporation; and every such corporation shall permit connections to be made and maintained with its tracks to and from any and all stock-yards where live stock is or may be kept. Any such corporation neglecting or refusing to comply with the requirements of this section shall be liable to all persons damaged thereby for all damages which they may sustain on that account, whether such damages result from any depreciation in the value of such property by such neglect or refusal to deliver such live stock as directed, or in loss to the proprietor or manager of any stock-yard to which it is directed to be delivered, and costs of suit, including such reasonable attorney's fees as shall be taxed by the court; and in case of any second or later refusal of such railroad corporation to comply with the requirements of this section, such corporation shall be by the court, in an action on which such failure or refusal shall be found, adjudged to pay for the use of the people of this state a sum of not less than one thousand nor more than five thousand dollars for each and every such failure or refusal, and this may be a part of the judgment of the court in any second or later proceeding against such corporation. (R. S. 1889, § 2590—x.)

SEC. 1084. Live stock shipped speedily without discrimination.—Every railroad corporation chartered by or organized under the laws of this state, or doing business within the limits of the same, when desired by any person or corporation to ship live stock over its road in car-load lots, shall receive and transport such live stock in car-load lots within a reasonable time, from any stock-yard adjoining its tracks or side-tracks, or from the tracks of any other railroad corporation or stock-yard company, without distinction, discrimination or favor between one shipper and another, and without distinction or discrimination as to the manner in which such live stock is offered to it for transportation, or as to the person, stock-yard company or place to whom or to which it may be consigned; and the penalties for any violation of the requirements of this section shall in all respects be the same, and shall be enforced and collected in the

(x) 60 A. 328. Not liable for care of stock, when. 90 Mo. 98. Power of station agents to make shipments of stock. 74 Mo. 364; 91 Mo. 152; 21 A. 273; 47 A. 570; 60 A. 328; 62 A. 252; 66 A. 388; 72 A. 34. Measure of damages resulting from delayed shipments. 66 A. 388; 72 A. 34. Liability of initial carrier as bailee. 65 A. 167. Damages for failure to supply cars—power of agents to contract for cars. 91 Mo. 152; 109 Mo. 582; 40 A. 579. When prior verbal contract not merged into subsequent written one. 19 A. 315; 62 A. 252; 72 A. 34. Attorney's fee allowed on motion. 60 A. 328.

same manner as provided in the preceding section. (R. S. 1889, § 2591—y.)

SEC. 1085. Shall transport shippers of stock or melons. Whenever any railroad company or corporation doing business within the limits of this state shall receive and ship any live stock, or watermelons when shipped with the privilege of peddling along the line of said road or roads, by the car-load, said company shall, in consideration of the price paid for said car, pass the shipper or his employe to and from said point designated in contract or bill of lading without further expense to shippers, under penalties as in the two preceding sections: *Provided*, that this section shall not be so construed as to permit a shipper of live stock to peddle the same along the line of said road or roads. (R. S. 1889, § 2592—z.)

SEC. 1086. Peddling cars for watermelons, etc.—The railroads of this state are required to carry peddling cars of watermelons or cantaloupes, strawberries, blackberries and other perishable fruits on the local or way freights when demanded by the shipper, and the freight rate on peddling cars shall be the same as on through cars, and no extra charges shall be made for the privilege of peddling; and the penalties for any violation of the requirements of this section shall in all respects be the same as provided in section 1083 of the Revised Statutes: *Provided*, this section shall only apply to melons and cantaloupes, strawberries, blackberries and other perishable fruits grown in this state. (Laws 1897, p. 97.)

SEC. 1087. Agent shall count stock.—Whenever any shipper of hogs, cattle, sheep, horses or other animals shall present his stock at any railway station for purposes of transportation, it shall be the duty of the railway agent at such station to count, or cause to be counted, said hogs, cattle, sheep, horses or other animals, and the number so counted shall be by the agent named in the bill of lading or receipt for such stock; and if said agent refuse or neglect to count or have counted said stock, then the railway company employing said agent shall be held responsible for the number of animals specified in such bill of lading or receipt, according to shipper's account. (R. S. 1889, § 2593—a.)

SEC. 1088. Shipper may mix freight—own risk.—Whenever any shipper shall order one or more cars for the purpose of trans-

(y) Furnishing cars. 40 Mo. 491; 62 Mo. 527; 109 Mo. 582; 17 A. 394; 19 A. 391; 62 A. 252. Reception of stock in pen equivalent to obligation to transport without unnecessary delay. 62 Mo. 527; 20 A. 453; 25 A. 473. Act of God. 40 Mo. 491; 43 Mo. 421; 62 Mo. 527; 89 Mo. 340; 94 Mo. 334; 13 A. 449. Rule is, that carriers are responsible for natural, ordinary and proximate consequences of acts, but not for such as are remote and extraordinary. 5 A. 7. Duty of carriers to prevent increase of damages. 89 Mo. 340. Lien for freight charges. 62 A. 639; 76 A. 472. Measure of damages to live stock. 75 A. 233. Shipper must read contract. 74 A. 406. Is presumed to know its contents. 136 Mo. 177. Limitation of common law liability; measure of damages for failure to ship on time. 66 A. 388; 72 A. 34. Common carrier cannot limit liability when loss is due to its own negligence. 2 A. 369; 6 A. 585; 35 A. 79; 68 A. 255. Must keep stock pens in reasonably safe condition. 57 A. 471.

(z) Right of passenger using stock pass. 66 Mo. 536. "Stock-pass," will not carry shipper's wife. 64 Mo. 536. Degree of care required where passengers ride gratuitously. 32 Mo. 292; 32 A. 228. A drover transported over railroad on pass for purpose of taking care of stock on train is a passenger and railroad cannot stipulate for exemption. 88 Mo. 239. Common carrier is not permitted to stipulate against its own negligence; this rule has never been relaxed. 82 Mo. at page 300-1.

(a) 57 A. 358.

porting any kind of stock, grain, or any other article of commerce or trade, he shall have the right and privilege to put in said car or cars two or more species of live stock, or different kinds of grain, or different articles of commerce or trade: *Provided*, that any such shipper of two or more species of stock, in the same car or cars, shall ship the same at his own risk of injury solely by reason of such mixed shipment; otherwise at the risk of the carrier. (R. S. 1889, § 2594—b.)

SEC. 1089. Minimum weight of car-load, mixed freight. Twenty-four thousand pounds shall be deemed the minimum weight for a car-load of such mixed stock when such car is thirty feet long, and such minimum weight shall be more or less than twenty-four thousand pounds, in proportion as such car is more or less than thirty feet long; and no railway company, or agent for such company, shall charge, demand or receive any greater sum for the transportation of such car or cars of mixed stock or grain than is charged for the transportation of such car or cars when but one species of stock or one kind of grain is shipped therein: *Provided*, that said different species of stock or different kinds of grain, or articles of commerce and trade, which are loaded in said car or cars, do not exceed the maximum weight allowed by law and usage when but one species of stock or kind of grain is shipped in such car or cars. (R. S. 1889, § 2595.)

SEC. 1090. Penalty—duty of commissioners and attorney-general, etc.—Any railway company owning or operating a railway in this state, that shall refuse or deny any of the rights and privileges granted to shippers by this act, shall forfeit and pay for every such refusal or denial, any sum not less than one hundred dollars nor more than five hundred dollars, together with costs of suit, including a reasonable attorney's fee. The penalties herein provided may be recovered by civil action in the name of the state of Missouri, and several counts may be joined in the same petition; and whenever the railroad commissioners shall, in any manner, come into possession of information which, in their judgment, warrants prosecution of any railroad company for violations of the provisions of this act, it shall be the duty of said commissioners immediately to cause suits to be commenced and prosecuted against such railroad company. Such suits and prosecutions may be instituted in any county in this state into or through which the line of the railroad company sued for violating this act may extend; and it shall be the duty of the attorney-general, and of any circuit attorney or prosecuting attorney of the circuit or county in which the said commissioners may desire such suit or prosecution instituted, to institute and prosecute the same, without delay, when so directed by the said commissioners; and such circuit attorney or prosecuting attorney shall receive for his services, out of the amount collected, the same compensation which is or may be allowed him by law for collections made on forfeited recognizances. (R. S. 1889, § 2596.)

SEC. 1091. *Id.* Damages.—In addition to the penalties herein provided for any violation of the provisions of this act, the aggrieved party may recover of any such corporation or company three times the amount of loss or damage he may sustain by reason thereof. (R. S. 1889, § 2597.)

SEC. 1092. Double-deck cars.—All railroad companies, private companies or individuals, owning or operating a railroad or rail-

roads in the state of Missouri, are required to furnish a sufficient number of double-decked cars for the shipment of sheep to supply the demand for such cars on their respective lines, and to allow shippers to load both decks in said cars with sheep to the aggregate extent of (20,000) twenty thousand pounds, which cars, so loaded, shall be received and transported by such railroad companies, or private companies or individuals, as one car-load of stock, and it shall not be lawful for said railroad companies, private companies or individuals, to charge or receive for the transportation of a double-decked car of sheep more than the legal rate of freight allowed for the shipment of stock. (R. S. 1889, § 2598—c.)

SEC. 1093. Penalty under preceding section.—Should any railroad company, or private company or individuals, owning or operating a railroad or railroads in the state of Missouri, refuse or neglect to furnish cars as provided in the preceding section, it shall not be lawful for them to charge or receive for the transportation of a car of sheep more than one-half the legal rate of freight allowed for the shipment of stock. (R. S. 1889, § 2599.)

SEC. 1094. Further penalties.—Any railroad company or private company or individuals owning or operating a railroad or railroads in the state of Missouri, failing or refusing to comply with the provisions of sections 1092 and 1093, shall pay to the shipper not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for every failure or refusal to comply with said sections, to be recovered in any court of competent jurisdiction: *Provided*, that such railroad company, private company or individuals owning or operating a railroad in this state shall have the privilege of furnishing, instead of a double-decked car, two cars, for which only one rate shall be charged. (R. S. 1889, § 2600.)

SEC. 1095. Notice of advance of rates.—No railroad company in this state shall advance its rates for carrying freight without having first given at least twenty day's notice of such change, by posting the schedule to which it is proposed to change the rates in at least three conspicuous places on each of the freight and passenger depots belonging to the company proposing the change. (R. S. 1889, § 2601.)

SEC. 1096. General civil penalty — venue for collection of.—Any person or company operating a railroad in this state, who shall fail to comply with the provisions of the preceding section shall, for each offense, forfeit five hundred dollars to the use of the common school fund of the county, to be collected by civil action by the circuit court of any county through which the road belonging to such person or company may run. Such suit may be instituted by any person injured by such violation, or by the prosecuting attorney of the county where the suit is brought. (R. S. 1889, § 2602.)

SEC. 1097. Shall furnish caboose.—Every individual, company or corporation owning, managing or operating, or who may hereafter own, manage or operate, any railroad or part of a railroad over bridges or through tunnels, as well as elsewhere in this state, who carry passengers, or whose duty it is to carry live stock as a common carrier, are hereby required to furnish to all shippers of live stock, having the right to accompany the same, a caboose or other suitable car for the transportation of such shipper or shippers to the actual place of unloading such shipments: *Provided*, that all such cabooses or

cars on all such trains shall be furnished with a toilet-room for the accommodation of passengers. Any railroad corporation or company doing business in this state refusing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars for each day's negligence or refusing to comply with the requirements of this section, after the enactment and passage of same, as required by law, and all moneys arising as such fines shall revert to the public school funds of this state. (R. S. 1889, § 2603, amended, Laws 1895, p. 116.)

SEC. 1098. Criminal penalty.—Any individual, company or corporation violating the provisions of the preceding section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and fined in any sum of not less than fifty nor more than five hundred dollars. (R. S. 1889, § 2604.)

SEC. 1099. Freight may be sold for charges, when.—If any such railroad corporation shall have transported any freight which shall not be called for within six months, or on which the charges shall not have been paid for thirty days, they may sell the same, after giving not less than ten days' notice, by posting where such articles are stored, and also by publishing the same in the nearest local paper; and any sums of money received from the proceeds of such sale, after paying all charges, and expenses of sale, shall be paid into the county treasury for the benefit of the owner, if he shall thereafter appear; but if such money be not claimed within one year, it shall go into the school fund of the county. (R. S. 1889, § 2605.)

SEC. 1100. Baggage shall be checked—penalties.—All baggage, when taken for transportation, shall be checked, if there is a handle, loop or fixture, so that the same can be attached, and a duplicate thereof given to the passenger or person delivering the same; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and, further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded; and on producing such check, or if he have no check, on demanding his baggage, if it be not delivered to him, he shall recover the value thereof. (R. S. 1889, § 2606—d.)

SEC. 1101. Freight cars, etc., shall not be placed in rear of passenger cars—penalty.—In forming a passenger train, baggage, freight, merchandise or lumber cars shall not be placed in rear of passenger cars; and if they, or any of them, shall be so placed, the officer or agent who so directed or knowingly suffered such an arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor, and be punished accordingly. (R. S. 1889, § 2607.)

SEC. 1102. Bell and whistle at crossings — penalty.—A bell shall be placed on each locomotive engine, and be rung at a distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street, and be kept ringing until it

(d) Baggage defined. 23 A. 403; 71 A. 385. The obligation of common carrier to carry baggage extends only to ordinary baggage. 20 Mo. 513. Bicycles. 71 A. 385; Liability of sleeping car companies; damages. 28 A. 199; 32 A. 632; 37 A. 598; 42 A. 134; 55 A. 474; 59 A. 641. Liability for baggage does not cease until delivered. 10 A. 125; 13 A. 436; 43 A. 424. Passenger whose baggage is lost is competent witness to prove contents and value. 36 Mo. 114.

shall have crossed such road or street, or a steam whistle shall be attached to such engine and be sounded at least eighty rods from the place where the railroad shall cross any such road or street, except in cities, and be sounded at intervals until it shall have crossed such road or street, under a penalty of twenty dollars for every neglect of the provisions of this section, to be paid by the corporation owning the railroad, to be sued for by the prosecuting or circuit attorney of the proper circuit, within ten days after such penalty was incurred, one-half thereof to go to the informer, and the other half to the county; and said corporation shall also be liable for all damages which any person may hereafter sustain at such crossing when such bell shall not be rung or such whistle sounded as required by this section: *Provided, however,* that nothing herein contained shall preclude the corporation sued from showing that the failure to ring such bell or sound such whistle was not the cause of such injury. (R. S. 1889, § 2608—e.)

SEC. 1103. Railroad crossings, how constructed, by whom.—Every such corporation shall construct and maintain good and sufficient crossings, where its railroad crosses public roads or town streets, now or hereafter to be opened for public use, which

(e) Failure to ring bell or sound whistle at crossing of traveled road or street is negligence; liability attaches when failure contributes to the injury. 70 Mo. 641; 71 Mo. 476; 76 Mo. 494; 77 Mo. 455; 78 Mo. 578; 88 Mo. 306; 96 Mo. 367; 98 Mo. 34; 104 Mo. 381; 112 Mo. 238; 128 Mo. 595; 22 A. 601. Not necessary to ring bell or sound whistle except when approaching public crossing. 69 Mo. 219; 71 Mo. 50, 303; 72 Mo. 50; 96 Mo. 99; 104 Mo. 211; 112 Mo. 238. Sufficient, if either be done. 70 Mo. 641; 77 Mo. 546; 78 Mo. 578; 89 Mo. 586; 111 Mo. 152; 22 A. 601; 50 A. 109; 69 A. 557; 70 A. 657; except in cities where it is imperative to sound bell. 45 Mo. 255. Where railroad crossing is not a public one, no signals are required. 113 Mo. 1. Public use of footway as crossing, with consent of company, does not convert into public crossing. 69 Mo. 219; 71 Mo. 50; 104 Mo. 211. One struck on a public road or street is not a trespasser. 128 Mo. 595. Evidence of public road crossing. 46 A. 466. Signals, other than statutory, may be required. 112 Mo. 238. One crossing railroad track at public crossing has the right to assume that statutory signals will be given. 111 Mo. 152; 45 A. 535. No evidence to the contrary, care and diligence presumed to have been exercised. *Id.* Where it appears signals were not given, burden of proof on company to show that such failure did not cause injury. 111 Mo. 152. Ordinary care required in approaching crossing. 55 A. 585. "Duty to look and listen." 64 Mo. 490; 65 Mo. 22; 71 Mo. 476; 72 Mo. 392, 168; 74 Mo. 602; 70 Mo. 86; 80 Mo. 335; 85 Mo. 229, 611; 86 Mo. 457; 88 Mo. 534, 306, 678; 90 Mo. 548; 91 Mo. 357; 93 Mo. 433; 94 Mo. 150; 98 Mo. 272, 183; 105 Mo. 270; 108 Mo. 525; 111 Mo. 555; 112 Mo. 268, 420; 113 Mo. 1; 117 Mo. 214; 119 Mo. 203; 120 Mo. 635; 122 Mo. 533; 124 Mo. 566; 129 Mo. 405; 132 Mo. 4; 134 Mo. 673; 135 Mo. 440; 136 Mo. 562; 138 Mo. 172; 141 Mo. 425; 147 Mo. 171, 140; 5 A. 311; 13 A. 352; 17 A. 518; 18 A. 151; 63 A. 501; 67 A. 356; 70 A. 88. Negligence, depends on attending circumstances. 105 Mo. 270; see 113 Mo. 1. Habits of intoxication not admissible to prove contributory negligence. 132 Mo. 4. Penal statute will be strictly construed. 19 A. 104. Penalties may be recovered either by indictment or information. 89 Mo. 562. Duty at dangerous crossing; employing flagmen. 65 Mo. 22; 72 Mo. 451; 67 A. 320; 45 A. 535; 46 A. 198. Duty of company and traveler at crossing of street or road. 75 Mo. 138; 76 Mo. 86; 77 Mo. 546; 85 Mo. 229, 611, 679; 86 Mo. 574; 88 Mo. 306, 534; 90 Mo. 314, 548; 93 Mo. 433; 94 Mo. 150; 96 Mo. 290, 367; 101 Mo. 67; 108 Mo. 525; 111 Mo. 555; 112 Mo. 238; 116 Mo. 450; 117 Mo. 214; 27 A. 202. Proof that stock was killed at railroad crossing, that bell was not rung, nor whistle sounded makes *prima facie* case. 76 Mo. 399; 78 Mo. 578; 81 Mo. 521; 82 Mo. 196; 88 Mo. 534, 306; 90 Mo. 548, 314; 65 Mo. 33; 70 A. 393; *contra*. 76 Mo. 494. Contributory negligence. 96 Mo. 509; 101 Mo. 93; 104 Mo. 381; 111 Mo. 152; 26 A. 336; 32 A. 438. Contributory negligence is matter of defense. 53 Mo. 509; 88 Mo. 306; 94 Mo. 286; 26 A. 336; 32 A. 438. Cannot be set up under general denial. 26 A. 336. Violation of municipal ordinance regulating rate of speed, negligence *per se*. 101 Mo. 67; 108 Mo. 525; 116 Mo. 450.

crossings shall be constructed of the materials and in the manner following: On each side of each rail shall be laid and securely spiked to the cross-ties a plank of not less than ten inches in width, two inches in thickness, nor less than sixteen feet in length on all public roads, nor less than twenty-four feet in length on all streets in towns and cities, to be of good and sound timber; the space between the inside planks shall be filled with macadam or gravel even with the top of the planks, and shall make good and sufficient approaches thereto, of equal width therewith and of easy grade; the same shall be covered with gravel or macadam to a depth of not less than six inches, and shall be substantially and properly joined up to the plank required to be laid on the outside of each rail: *Provided*, that such corporation may make such road or street to pass under its said railroad where the same can be done with equal convenience and safety to the traveling public. Every such corporation shall also cause boards to be placed, well supported by posts or otherwise, and constantly maintained at all crossings of public roads or streets (where gates are not provided) so as to be easily seen by travelers, and on each side of such boards shall be painted, in capital letters of at least the size of nine inches each, the words "railroad crossing." If such corporation fail to construct or maintain said crossings, or to put up boards as above provided, then the overseers, municipal authorities or parties having legal control or charge of said roads or streets shall notify such corporation of the necessity of the construction and erection thereof, which notice shall be in writing, and shall be served by delivering a copy of the same to the agent of the company most convenient to the crossing. Upon the service of such notice, if such corporation fail to construct said crossing or put up said boards within thirty days from the service of said notice, the parties having charge of said roads or streets may proceed to construct said crossing or put up said boards as herein provided, and shall be entitled to recover double the amount expended, together with all costs, in the name of the road district, county, municipal corporation, or other competent authority, at whose expense the said crossings were constructed, or the said boards erected, in any court of competent jurisdiction, from such corporation refusing or neglecting to construct or erect the same. And such corporation shall also be liable for all damages resulting from such neglect to construct such crossing or erect such boards, said damages to be recovered in the name of the parties injured, in any court of competent jurisdiction. This section shall not apply to streets in cities and town or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets. (R. S. 1889, § 2609—f.)

(f) Duty of company to construct crossing and liability for failure. 75 Mo. 27; 98 Mo. 235, 34, 74; 106 Mo. 423; 58 A. 502; 62 A. 550. Must injure highway as little as possible and make crossing convenient and safe. 102 Mo. 633. Reasonable time allowed to discover and repair defect in crossing. 141 Mo. 425. If company fully complies with requirements of statute it is not liable for injury because of defect in such crossing. *Id.* Term "crossings" includes embankment and approaches. 17 A. 518. Whenever railroad crosses public highway, no notice to construct proper crossing required. 75 Mo. 27. Service of notice and sufficiency. 44 A. 100. Crossing, width of. 17 A. 126, 518. Statute not intended solely for protection of travelers. 75 Mo. 27. Crossing may become establish by sufficiently long use. 113 Mo. 236; but see 104 Mo. 211. Where company fails to keep crossing in repair, and in consequence a team is stalled and struck, it is liable. 85 Mo. 611.

SEC. 1104. Penalty for injuring railroad property.—If any person or persons shall willfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to said corporation treble the amount of damages sustained by means of such offense. (R. S. 1889, § 2610.)

SEC. 1105. Lawful fences—gates, etc., who may build—trespassers.—Every railroad corporation formed or to be formed in this state, and every corporation to be formed under this article, or any railroad corporation running or operating any railroad in this state, shall erect and maintain lawful fences on the sides of the road where the same passes through, along or adjoining inclosed or cultivated fields or uninclosed lands, with openings and gates therein, to be hung and have latches or hooks, so that they may be easily opened and shut, at all necessary farm crossings of the road, for the use of the proprietors or owners of the land adjoining such railroad, and also to construct and maintain cattle-guards, where fences are required, sufficient to prevent horses, cattle, mules and all other animals from getting on the railroad; and until fences, openings, gates and farm crossings and cattle-guards as aforesaid shall be made and maintained, such corporation shall be liable in double the amount of all damages which shall be done by its agents, engines or cars to horses, cattle, mules or other animals on said road, or by reason of any horses, cattle, mules or other animals escaping from or coming upon said lands, fields or inclosures, occasioned in either case by the failure to construct or maintain such fences or cattle-guards. After such fences, gates, farm crossings and cattle-guards shall be duly made and maintained, said corporation shall not be liable for any such damage, unless negligently or willfully done. If any corporation aforesaid shall, after three months from the time of the completion of its road through or along the lands, fields or inclosures hereinbefore named, fail, neglect or refuse to erect or maintain in good condition any fence, openings or farm crossings or cattle-guards as herein required, then the owners or proprietors of said lands, fields or inclosures may erect or repair such fences, openings, gates or farm crossings or cattle-guards, and shall thereupon have a right to sue and recover from such corporation in any court of competent jurisdiction the cost of such fences, openings, gates, cattle-guards or repairs, together with a reasonable compensation for his time, trouble and labor in and about the construction of such fences, openings, gates or cattle-guards, or the making of such repairs, together with ten per cent. interest per annum thereon, from the time of the service of process upon such corporation in such suit: *Provided*, that before such repairs are commenced, such owner shall give five (5) days' notice, in writing, to the railroad company, by delivering a copy thereof to the nearest section foreman or station agent of such railroad company, that the railroad fence needs repairs at a place or point named in the notice, on the lands of such owner. And in every such action, if the plaintiff recover judgment, there shall be taxed as costs against the defendant an attorney's fee, to be fixed by the court or justice before which or whom the cause may be pending, at such sum as may be a reasonable compensation for all legal services rendered for plaintiff in the case, without regard to any

agreement between plaintiff and his counsel as to fees; but such fee shall not be taxed so long as any appeal taken in such case shall remain undisposed of. And if any person shall ride, lead or drive any horses or other animals upon such road within such fences and guards other than a farm crossing, without the consent of the corporation, he shall, for every such offense, forfeit and pay a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party injured. If any person not connected with or employed upon the railroad shall walk upon the track or tracks thereof, except where the same shall be laid across or along a publicly traveled road or street, or at any crossing, as hereinbefore provided, and shall receive harm on account thereof, such person shall be deemed to have committed a trespass in so walking upon said track in any action brought by him on account of such harm against the corporation owning such railroad, but not otherwise. (R. S. 1889, § 2611—g.)

(g) Section construed. 26 Mo. 441; 36 Mo. 202; 68 Mo. 56; 72 Mo. 338, 583; 73 Mo. 465, 576; 77 Mo. 475; 78 Mo. 528, 617; 81 Mo. 43, 499, 605; 82 Mo. 466; 84 Mo. 625; 85 Mo. 160; 86 Mo. 492; 87 Mo. 85, 139, 278, 431; 88 Mo. 625; 89 Mo. 31; 90 Mo. 116, 296, 520; 91 Mo. 67, 163, 296, 667; 92 Mo. 284; 29 A. 41; 30 A. 122; 32 A. 552, 572, 634; 33 A. 543, 677; 34 A. 141, 636; 36 A. 51, 109, 151; 37 A. 651, 654; 39 A. 52, 63, 105, 257, 382, 489; 40 A. 554; 41 A. 165; 42 A. 14, 224; 47 A. 189, 624, 630; 49 A. 164, 170; 61 A. 125, 166, 500; 62 A. 381; 63 A. 9, 616, 638; 65 A. 123, 599, 611; 58 A. 359; 59 A. 367; 60 A. 599; 61 A. 357, 459, 594; 63 A. 548; 65 A. 445, 468, 600; 66 A. 32; 67 A. 255; 69 A. 295; 70 A. 175. Statement sufficient. 70 Mo. 570; 72 Mo. 338; 73 Mo. 471; 74 Mo. 117, 453; 75 Mo. 426, 514; 77 Mo. 254, 475, 591; 78 Mo. 91; 79 Mo. 349; 80 Mo. 147; 81 Mo. 43, 499; 82 Mo. 237; 83 Mo. 171; 84 Mo. 413; 90 Mo. 296; 91 Mo. 67, 296, 667; 92 A. 552; 34 A. 636; 36 A. 151; 37 A. 654; 39 A. 52; 41 A. 165; 43 A. 354; 44 A. 11, 15; 47 A. 189; 51 A. 500; 63 A. 548; 66 A. 573. Insufficient. 70 Mo. 202; 73 Mo. 619; 74 Mo. 47, 60; 76 Mo. 553; 79 Mo. 196, 418; 82 Mo. 169; 83 Mo. 372; 87 Mo. 278; 89 Mo. 180; 91 Mo. 168; 32 A. 572; 39 A. 63; 51 A. 125; 52 A. 331. Appeal: Amended statement. 73 Mo. 619; 79 Mo. 328, 525; 82 Mo. 106, 128, 686; 85 Mo. 160; 34 A. 147; 110 Mo. 280; 44 A. 100. Before appeal. 75 Mo. 27; 76 Mo. 261; 67 A. 255. *Prima facie* liability. 54 Mo. 228; 55 Mo. 271; 74 Mo. 453; 80 Mo. 283; 87 Mo. 139; 90 Mo. 127; 91 Mo. 296; 36 A. 170; 39 A. 382; 43 A. 294; 47 A. 630; 53 A. 13; 66 A. 32, 573. Jurisdiction: Must appear that animal was killed in township where justice resides or adjoining township. 89 Mo. 180; 90 Mo. 520; 21 A. 437; 25 A. 226; 30 A. 573; 38 A. 48, 579; 50 A. 569. Fact that two townships adjoin is jurisdictional and must be alleged and proved. 86 Mo. 492; 111 Mo. 168; 21 A. 437; 30 A. 516, 573; 35 A. 621; 38 A. 48; 49 A. 250; 52 A. 381; 56 A. 655; 66 A. 623. Recital of that fact in justice's transcript will not supply absence of such evidence. 66 A. 623. Jurisdictional facts must appear in record; transcript must show jurisdiction. 63 Mo. 302; 80 Mo. 229; 89 Mo. 180; 19 A. 649; 35 A. 621. Jurisdiction of justice without regard to value, constitutional. 83 Mo. 496. Justice of one county has no jurisdiction over action accruing in another. 72 A. 400. Provisions of section penal and for protection of every person whose animals are lawfully within adjoining field. 65 Mo. 172; 71 Mo. 384; 90 Mo. 620; 81 Mo. 43; 25 A. 113; 30 A. 122; 39 A. 574; 43 A. 324. Obligation to fence through unclosed lands is imposed for benefit of general public. 79 Mo. 349, 367; 35 A. 621; 43 A. 324. Necessary to allege and prove that stock killed got on track at place where company was required to fence. 73 Mo. 466; 78 Mo. 91; 79 Mo. 196, 418, 432, 525; 32 A. 572; 33 A. 543; 36 A. 109; 49 A. 164; 44 A. 15. What is lawful fence. 79 Mo. 328. Where stock go on track at point where it should be fenced, company liable for injuries. 73 Mo. 465. Place of killing or injury presumed to be place of entrance upon track. 83 Mo. 171; 23 A. 325; 33 A. 543. Contract with another to erect such fence no defense to action. 78 Mo. 528. After track lawfully fenced, company only liable for negligence and willfulness. 59 A. 367. Company cannot avail itself of defense that stock came upon right-of-way over premises of adjoining proprietor, unless such premises be inclose by lawful fence. 54 A. 647. Liability of company not lessened by land-owner's failure to repair or build fence and cattle guards. 43 A. 280. Escape of stock through negligence of company to fence. 44 A. 201. Obligation to fence begins, when. 43 A. 313; see 78 Mo. 528. Failure to maintain fence. 87 Mo. 431. Company not liable, when. 73 Mo. 576; 75 Mo. 668; 79 Mo. 367, 504; 90 Mo. 92;

SEC. 1106. **Insufficient fence—stock killed—damages.**—

Whenever any live-stock shall go in upon any railroad or its right of way, in this state, and the said railroad is not at such place or places inclosed by a good fence on both sides of said railroad, such as is by law required, and such stock, by being frightened or run by any passing locomotive or train on said railroad, shall be injured or killed by or because of having run against the fence on either side, or into any

82 Mo. 427; 83 Mo. 466, 667; 87 Mo. 431. Place animal comes on track determines liability. 44 A. 15. Company should not only fence animals off tracks, but also fence so as to prevent them trespassing by passing over or under track. 41 A. 260. Company failing to fence, owner may fence either side and recover. 73 Mo. 142. No notice contemplated of intention to fence. 42 A. 14. Company not excused from fencing where right-of-way merely abuts upon town plat. 82 Mo. 466. Agreement by landlord not a fence binds tenant, when. 82 Mo. 538. That road parallels adjoining highway or another track does not exempt company from fencing. 78 Mo. 286; 79 Mo. 349. Provision whereby railroads are required to fence, etc., applies to tenant as well as to owner of fee. 56 A. 611. Not required to fence grounds kept open for the use of the public and transaction of business at station. 47 A. 189. Extent of such grounds. 33 A. 543; but if company could have fenced, etc. 33 Mo. 309; 34 Mo. 177, 235, 242; 35 Mo. 457; 36 Mo. 467; 45 Mo. 469; 48 Mo. 512, 558; 58 Mo. 45; 66 Mo. 567, 683; 79 Mo. 247, 336; 82 Mo. 128; 83 Mo. 507; 84 Mo. 345, 583; 90 Mo. 127; 28 A. 556. Approved instruction on failure to maintain statutory fence. 75 A. 78. Notwithstanding negligence of owner of cattle, company will be held liable for willfully and wantonly destroying them. 72 A. 433. Damage to crops by stock for want of sufficient fence: pleading and practice. 49 Mo. 438; 60 Mo. 567; 79 Mo. 39; 30 A. 657. What is sufficient fence. 79 Mo. 328. If company fails to comply with statutory duty, unnecessary to allege or prove negligence. 48 Mo. 510; 64 Mo. 255; 66 Mo. 567; 72 Mo. 195; 84 Mo. 345; 91 Mo. 58; and no amount of care and caution in running train will be good defense. 33 A. 677; 51 A. 166. No liability for stock drowned on right-of-way. 66 Mo. 325; nor killed within limits of incorporated town, under this section. 48 Mo. 231; 60 Mo. 405; 66 Mo. 567, 572, 683; 83 Mo. 507; 84 Mo. 345; 44 A. 224; 51 A. 166; nor at public crossings. 72 Mo. 195; 76 Mo. 639; 43 A. 287; 65 A. 445; and such exceptions apply to crossings *de facto*. 76 Mo. 639; 20 A. 427; 27 A. 578; 43 A. 287; 65 A. 445; 66 A. 506. Private road, public highway. 67 Mo. 56. What are highways. 35 Mo. 352. Mere private road which public is not using and has no right to use must be fenced. 27 A. 578. Not necessary that fence should be erected exactly on dividing line. 51 Mo. 138. "Sides of the road" means dividing line between defendant's right of way and land-owner's field. 42 A. 14. Must fence on both sides. 55 Mo. 271; and all inclosed lands. 53 Mo. 525; 55 Mo. 362; 57 Mo. 152; and sides of switch where it extends for considerable distance through open lands. 58 Mo. 78; 26 A. 368; but where switch is crossed by public road company not bound to fence any portion. 56 A. 367. Company not liable where gate is left open by third parties. 71 Mo. 384; 83 Mo. 660; 26 A. 344; 27 A. 418; nor where stock came on track through open or defective gate unless company knew or should have known of defect. 75 Mo. 668; 79 Mo. 504; 81 Mo. 227; 83 Mo. 466; 27 A. 418; 58 A. 359; but not where gate was originally defective. 91 Mo. 67. Gates must be kept in repair. 51 A. 500; 63 A. 548. Duty of land-owner to close and keep closed gate. 58 A. 359. "Maintain fences with gates" means "maintain" gates closed. 46 A. 344; 51 A. 500. Care required of railroad in keeping up fences not limited to ordinary care. 78 Mo. 286. Land-owner may waive right to have fences, etc. 60 A. 599; and so may temporarily or *in toto* dispense with crossings. *Id.* Effect of "stock law." 58 Mo. 207; 59 Mo. 245; 84 Mo. 625; 16 A. 172; 17 A. 103; 21 A. 416; 23 A. 372; 30 A. 122. Licensees, trustees, receivers and others, liable. 72 Mo. 338; 77 Mo. 475; 65 A. 649. Farm-crossing, mixed question of law and fact. 75 A. 78. Company not required to construct cattle guards at farm-crossing. 79 Mo. 504; 83 Mo. 496. Provision relative to such crossing applies only when farm is cut in two and crossing desired to connect parts. 56 A. 68; 61 A. 357; but see 56 A. 72. Remedy for failure to construct. 56 A. 68. If cattle-guard ordinarily sufficient to turn stock, sufficient under statute. 47 A. 624. Question for jury. *Id.* 59 A. 137. Injury must be caused by collision. 18 A. 274; 23 A. 65. Not liable, when. 44 Mo. 291; 72 Mo. 565; 90 Mo. 116; otherwise if action be at common law. 18 A. 274; 40 A. 554; 36 A. 163. While proof of actual collision may rest on inferential evi-

culvert, bridge, slough or mire, or other object along the line of said road, the railroad company shall pay the owner of any stock so injured or killed the damage sustained. (R. S. 1889, § 2612—h.)

Sec. 1107. *Id.* Costs—attorney's fee.—If the owner of any live-stock, including horses, mules, asses, cattle, sheep and hogs, whenever the same shall have been injured or killed, as in section 1106 described, shall be compelled to bring suit in court to recover the damage so sustained, it shall be the duty of every court in which such suit may be heard to tax up a seasonable attorney's fee in such suit in favor of the complainant, if he recovers judgment, which shall be paid as other costs by the defendant. (R. S. 1889, § 2613—i.)

Sec. 1108. Injury to stock — agreed damages — to be paid when.—Whenever any live stock shall be injured or killed by any railroad, so as to render the railroad liable under section 1106 of the Revised Statutes of 1899, or otherwise, and the owner of said live-stock so injured or killed, or his authorized agent, and the agent or adjuster of the railroad, shall agree upon the amount of damage or damages sustained by the owner, the railroad shall, within forty days after said agreement, pay to the owner thereof, or his authorized agent, the amount of damage or damages so agreed upon. (New section.)

Sec. 1109. Failure to pay—double damages.—If any railroad neglect, fail or refuse to pay the owner or his authorized agent, the damage or damages agreed upon, as provided in section 1108 of this article, then the railroad shall be liable to the owner in double the amount of damage or damages agreed upon, to be recovered in any court of competent jurisdiction. (New section.)

Sec. 1110. Ditches and drains—grain or hay-stacks—right of way kept clear.—It shall be the duty of every corporation, company or person owning or operating any railroad or branch thereof in this state, and of any corporation, company or person constructing any railroad in this state, within three months after the comple-

dence. 44 Mo. 291; 72 Mo. 583; 82 Mo. 90; 91 Mo. 296; 34 A. 141; 51 A. 432; 55 A. 163; 58 A. 467. Single damage act not exclusive remedy, but cumulative; does not displace common law. 49 A. 520. Determination of character of action. *Id.* 121 Mo. 477. Difference between statutory and common law cause of action. 31 Mo. 399; see 75 Mo. 73; 76 Mo. 367, 399; 84 Mo. 119; 20 A. 232; 30 Mo. 372; 87 Mo. 278. Proof of actual collision not necessary in common law action. 40 A. 554. Laws providing for restraining animals not *in para materia* with law requiring railroad to signal at public crossings; former does not repeal latter and signals must be given. 71 A. 263. Damages to stock, negligently killed, cannot be reduced by value of parts of carcass. 52 A. 119; but if owner of such animal uses or gives away carcass, company will be entitled to have value of such deducted. 75 Mo. 668. Plaintiff must be owner or in possession of animal at time of killing. 76 Mo. 494. Employee's duty when discovering stock on track. 45 A. 123; 46 A. 477; 47 A. 519; 58 A. 359. Splitting demands. 38 A. 511. Where several cattle are killed at same time there is but one cause of action. 83 Mo. 660; 25 A. 650. Owner of property injured by depredations of cattle, occasioned by failure of adjoining railroad to maintain fence, may sue for entire damage in one count. 25 A. 104. No law for allowance of attorney's fee; cannot be allowed under double damage act. 65 A. 468. Release in right-of-way deed. 39 A. 267. Double damages, when and when not allowed. 54 Mo. 240; 87 Mo. 86; 89 Mo. 147. Double damage act constitutional. 86 Mo. 540; 87 Mo. 85. Statute penal and time within which suits may be brought limited. 74 Mo. 438.

(h) Proof: 103 Mo. 52; 111 Mo. 168; 38 A. 579; 55 A. 123; 61 A. 459. Stock escaping from enclosed land; when liability attaches. 61 A. 459. Remedy cumulative; common law statutory. 49 A. 520; 57 A. 676; 66 A. 184; 121 Mo. 477.

(i) Constitutional. 103 Mo. 52; 111 Mo. 168. Issue for jury. 55 A. 123; 67 A. 156; but may be waived, how. 55 A. 123. No attorney fee in common law action. 67 A. 255.

tion of the same through any county in this state, to cause to be constructed and maintained suitable ditches and drains along each side of the road-bed of such railroad, to connect with ditches, drains, or water-courses, so as to afford sufficient outlet to drain and carry off along such railroad whenever the draining of such water has been obstructed or rendered necessary by the construction of such railroad; and in case such corporation, company or person shall fail or neglect to construct and maintain such ditches or drains within the time limited in this article, the county courts of the counties through which such railroad has been or may be located are hereby authorized and required, upon the petition of twenty land owners of such county along the line of and contiguous to such railroad, to cause such ditches or drains to be constructed and maintained, and such court may maintain an action against such corporation, company or person so failing to construct and maintain such ditches or drains in any court of competent jurisdiction, in the name of such county, and shall be entitled to recover all costs, expenses and damages incurred and accruing in the construction and maintenance of such ditches or drains; and it shall be the duty of every corporation, company or person owning or operating any railroad or branch thereof in this state, to cause all dead or dry vegetation and undergrowth upon the right of way occupied by such railroad company to be cleaned off and burned up or removed twice in each year, for the purpose of preventing the spread of fire, and the destruction of property, to wit: Between the 1st and fifteenth days of August, and between the 5th and 25th days of October, in each year; and any corporation, company or person failing to comply with the provisions of this section shall incur a penalty not to exceed five hundred dollars, and be liable for all damages done by said neglect of duty. (R. S. 1889, § 2614, amended, Laws 1891, p. 82—j.)

SEC. 1111. Fires from engines—damages.—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own behalf for its protection against such damages. (R. S. 1889, § 2615—k.)

SEC. 1112. Construction on county lines — survey to be made, by whom, for what purpose.—In any case where a railroad is built along any county line, or where the line dividing any two

(j) Surface water: duties and liability of company. 36 Mo. 202; 55 Mo. 119; 60 Mo. 329; 72 Mo. 514; 76 Mo. 614; 78 Mo. 504; 83 Mo. 271; 21 A. 600; 47 A. 363; 48 A. 398; 69 A. 574, 569. Rule under common law. 29 A. 68. Measure of damages. 69 A. 574. Fact that fire escapes from passing railroad engine and burns property *prima facie*, negligence. 70 Mo. 243; 76 Mo. 217, 550; 85 Mo. 178; 90 Mo. 389; 112 Mo. 622; 50 A. 504; 74 A. 106. Rule as to railway engines an exception; does not apply to fire set by traction engines. 81 Mo. 80; 70 A. 34.

(k) Constitutional. 121 Mo. 298. Proof of diligence and care on part of railroad will not relieve it from liability. 121 Mo. 298. Interest not recoverable. 63 Mo. 99, 367; 64 Mo. 542; 73 Mo. 33; 71 A. 464. Liability for escape of fire—measure of damages. 67 Mo. 715; 69 Mo. 614; 70 Mo. 243, 252; 76 Mo. 217, 550; 80 Mo. 573; 85 Mo. 178; 87 Mo. 117; 89 Mo. 106; 90 Mo. 389; 121 Mo. 298, 340; 138 Mo. 242; 17 A. 356; 68 A. 465. Sufficiency of statement and proof. 67 Mo. 715; 70 Mo. 243, 252; 76 Mo. 217; 80 Mo. 573; 85 Mo. 178; 112 Mo. 622; 121 Mo. 298; 138 Mo. 242; 17 A. 356; 19 A. 302; 45 A. 153; 50 A. 504; 68 A. 465.

or more counties is crossed and recrossed by any such railroad, in order to ascertain the exact amount of railroad bed and track which belongs within the lines of each of the respective counties, the county courts of each of such counties are hereby authorized and required to cause a survey of the same to be made, and it shall be the duty of the county courts to appoint the county surveyor, or some other suitable person, for each of their respective counties, who shall proceed jointly to survey, locate and establish the said line; and the said surveyor shall commence at the first intersection of the county line with said railroad, at either end of the same, as it may suit their convenience, and make a correct survey of the same, and measure correctly all portions of the bed and track of said railroad which they find on either side of said county line. They shall file in the office of the county clerk of each of their respective counties a correct plat of the said survey, with the notes of the same, showing the exact amount of road-bed which belongs within the lines of each of the respective counties; and in all cases hereafter, in the assessment and collection of the revenue on said railroads, the county court shall be governed by the said survey. (R. S. 1889, § 2616.)

SEC. 1113. Shipments of grain in bulk.—Every railroad corporation which shall receive any grain in bulk for transportation to any place within the state shall transport and deliver the same to any consignee, elevator, warehouse or place to whom or to which it may be consigned and directed: *Provided*, such person, warehouse or place can be reached by any track owned, leased or used, or which can be used by such corporation; and every such corporation shall permit connections to be made and maintained with its track to and from any and all public warehouses where grain is or may be stored. Any such corporation neglecting or refusing to comply with the requirements of this section shall be liable to all persons injured thereby for all damages which they may sustain on that account, whether such damages result from any depreciation in the value of such property, by such neglect or refusal to deliver such grain as directed, or in loss to the proprietor or manager of any public warehouse to which it is directed to be delivered, and costs of suit, including such reasonable attorney's fees as shall be taxed by the court. And in case of any second or later refusal of such railroad corporation to comply with the requirements of this section, such corporation shall be, by the court, in an action on which such failure or refusal shall be found, adjudged to pay, for the use of the people of this state, a sum of not less than one thousand nor more than five thousand dollars, for each and every such failure or refusal, and this may be a part of the judgment of the court in any second or later proceeding against such corporation. In case any railroad corporation shall be found guilty of having violated, failed or omitted to observe and comply with the requirements of this section, or any part thereof, three or more times, it shall be lawful for any person interested to apply to a court of competent jurisdiction, and obtain the appointment of a receiver to take charge of and manage such railroad corporation until all damages, penalties, costs and expenses adjudged against such corporation for any and every violation shall, together with interest, be fully satisfied. (R. S. 1889, § 2617.)

SEC. 1114. Consignments to elevators, etc., declared temporary.—All consignments of grain to any elevator or public warehouse shall be held to be temporary, and subject to change by the

consignee or consignor, at any time previous to the actual unloading of such property from the cars in which it is transported. Notice of any change in consignment may be served by the consignee on any agent of the railroad corporation having the property in possession, who may be in charge of the business of such corporation at the point where such property is to be delivered; and if, after such notice, and while the same remains uncanceled, such property is delivered in any way different from such altered or changed consignment, such railroad corporation shall, at the election of the consignee or person entitled to control such property, be deemed to have illegally appropriated such property to its own use, and shall be liable to pay the owner or consignee of such property the value of the property, and shall forfeit and pay to the owner or consignee the sum of twenty-five dollars, to be recovered by civil action before any court of competent jurisdiction; and no extra charge shall be permitted by the corporation having the custody of such property in consequence of such change of consignment. (R. S. 1889, § 2618—1.)

SEC. 1115. Time allowed for removing grain from cars.

Any consignee or person entitled to receive the delivery of grain transported in bulk by any railroad shall have twenty-four hours, free of expense, after actual notice of arrival by the corporation to the consignee, in which to remove the same from the cars of such railroad corporation, if he shall desire to receive it from the cars on the track; which twenty-four hours shall be held to embrace such time as the car containing such property is placed and kept by such corporation in a convenient and proper place for unloading. And it shall not be held to have been placed in a proper place for unloading, unless it can be reached by the consignee or person entitled to receive it, with teams or other suitable means for removing the property from the car, and reasonably convenient to the depot of such railroad corporation at which it is accustomed to receive and unload merchandise consigned to that station or place. Nothing herein contained, however, shall be held to authorize the changing of any consignment of grain, except as to the place at which it is to be delivered or unloaded; nor shall such change of consignment in any degree affect the ownership or control of property in any other way. (R. S. 1889, § 2619.)

SEC. 1116. No discrimination allowed in shipping grain—grain to be weighed and shortage made up.—Every railroad corporation chartered by or organized under the laws of this state, or doing business within the limits of the same, when desired by any person wishing to ship any grain over its road, shall receive and transport such grain, in bulk or otherwise, within a reasonable time, and load the same either upon its track, at its depot, or at any warehouse adjoining its track or side-track, without distinction, discrimination or favor between one shipper and another, and without distinction or discrimination as to the manner in which such grain is offered to it for transportation, or as to the person, warehouse or place to whom or to which it may be consigned; and at all stations where scales are required to be kept, at the time such grain is received by it for transportation, such corporation shall carefully and correctly weigh the same, and issue to the shipper thereof a receipt or bill of lading for such grain, in which shall be stated the true and correct weight, and such corporation shall weigh out and deliver to such shipper, his consignee or other person entitled to receive the same, at

the place of delivery, the full amount of such grain, without any deduction for leakage, shrinkage or other loss in the quantity of the same, except that one-half of one per cent. shall be allowed for leakage, shrinkage or other loss on bulk grain. In default of such delivery, the corporation so failing to deliver the full amount of such grain shall pay to the person entitled thereto the full market value of any such grain not delivered at the time and place when and where the same should have been delivered. (R. S. 1889, § 2620—m.)

SEC. 1117. Scales for weighing by car-loads to be erected, where, penalty for refusal.—At all stations or places from which the shipment of grain by the road of any such corporation shall have amounted, during the previous year, to fifty thousand bushels or more, such corporation shall erect and keep in good condition for use, and use in weighing grain to be shipped over its road, true and correct scales, of proper structure and capacity, for the weighing of grain by car-load in their cars. Such corporation shall carefully and correctly weigh each car upon which grain shall be shipped from such place or station, both before and after the same is loaded, and ascertain and receipt for the true amount of grain so shipped. If any such corporation shall neglect or refuse to erect and keep in use such scales, or shall, upon receipt by it of any grain for transportation, neglect or refuse to weigh and receipt for the same, as aforesaid, the sworn statement of the shipper or his agent, having personal knowledge of the amount of grain so shipped, shall be taken as true as to the amount so shipped; and in case of neglect or refusal of any such corporation, upon the delivery by them of any grain, to weigh the same as aforesaid, the sworn statement of the person to whom the same was delivered, or his agent, having personal knowledge of the weight thereof, shall be taken as true as to the amount delivered; and if by such statement it shall appear that such corporation has failed to deliver the amount so shown to be shipped, such corporation shall be liable for the shortage, and shall pay to the person entitled thereto the full market value of such shortage at the time and place when and where the same should have been delivered. In case any railroad corporation shall neglect or refuse to comply with any of the requirements of the preceding section, it shall, in addition to the penalties therein provided, forfeit and pay for every such offense, and for each and every day such refusal or neglect is continued, the sum of one hundred dollars, to be recovered in an action of debt before any court of competent jurisdiction, in the name of the state of Missouri—such penalty or forfeiture to be paid to the county in which the suit is brought—and shall also be required to pay all costs of the prosecution, including such reasonable attorney's fees as may be assessed by the court before whom the case may be tried. (R. S. 1889, § 2621.)

SEC. 1118. Grain and freight received at all junctions—trains—penalty.—Every railroad corporation organized or doing business under the laws of this state, or authority thereof, shall receive and deliver all grain and other freight consigned to its care for transportation at the crossings and junctions of all other railroads, canals and navigable rivers; and shall, at all cities and towns along the line of their railroad, having a population of two hundred inhabitants or more, construct and maintain switches and freight houses for the receipt and delivery of grain and other freight that may be

(m) To charge rate less than regular rate not discrimination. 22 A. 224. Pott-
tion sufficient. *Id.*

tendered such railroad corporation for transportation; and shall stop at least one train daily thereat to receive and unload freight. Any violation of this section shall render any such railroad corporation subject to the same penalty as contained in section 1114. (R. S. 1889, § 2622—n.)

SEC. 1119. Private switches, where — penalty. — Any person or corporation owning or operating any coal, lead, iron or zinc mine, or any other ore, or any saw-mill or other industry, whenever in the opinion of the railroad commissioners the amount of business is sufficient to justify the same, near or within a reasonable distance of any railroad track, may, at their or its expense, build and keep in repair a switch leading from such railroad to such mine, saw-mill or other industry; such railroad company shall be required to furnish the switch-stand and frog and other necessary material for making connection with its tracks, and shall make such connection—the party owning such mine, saw-mill or other industry to pay the actual cost thereof; and if any railroad company, after demand is made, shall refuse to furnish said material for making said connection and put the same in place, or after the building of such switch shall fail or refuse to operate the same, such railroad company failing and refusing shall forfeit and pay to the party or corporation aggrieved the sum of five hundred dollars for each and every such offense, together with a reasonable attorney's fee, to be recovered by civil action in any court of competent jurisdiction; and every day of such refusal on the part of any railroad company to operate such switch as aforesaid, after demand is so made, shall be deemed a separate offense. (R. S. 1889, § 2623.)

SEC. 1120. Upon failure to furnish cars, shippers may furnish them—penalty for failure to return. — Whenever any railroad corporation shall fail, neglect or refuse to furnish, within a reasonable time after demand of a station agent, sufficient cars to supply any party desiring to ship property, then such party shall have the right to furnish cars, which shall be switched and hauled to their destination without unreasonable delay or discrimination in any manner between such cars and cars belonging to the corporation or any other person. Any party furnishing cars as aforesaid shall pay to the railroad corporation a reasonable compensation for the service rendered, and in case an agreement cannot be reached as to such compensation, the railroad commissioners shall fix the same, and when such compensation has been so fixed, it shall be *prima facie* evidence that the same is reasonable. Any railroad company failing or refusing to transport and return the cars furnished by said party or corporation mentioned in this section, shall pay to the party or corporation aggrieved the sum of five hundred dollars for each and every such offense, together with a reasonable attorney's fee, to be recovered by civil action in any court of competent jurisdiction, and every day of such refusal on the part of any railroad company to transport and return such cars as aforesaid after demand is made, shall be deemed a separate offense. (R. S. 1889, § 2624—o.)

SEC. 1121. No officer of railroad shall furnish it with supplies on his own account—penalty.—No president, director, officer, agent or employe of any railroad company, or other cor-

(n) Freight junctions: duty to receive and deliver. 68 Mo. 268.

(o) 103 Mo. 532.

poration operating a railroad, shall hereafter be interested in any manner, directly or indirectly, in furnishing materials or supplies to such company; nor shall any such officer, agent or employe of any railroad company, or other corporation owning, controlling or managing a railroad, be interested, directly or indirectly, in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or operated by the corporation or association of which he is an officer, agent or employe. Any president, director, officer, agent or employe of any such railroad company who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a term of not less than three months nor more than one year, or by both such fine and imprisonment, and each day any such violation continues shall be a separate offense. (R. S. 1889, § 2625.)

SEC. 1122. Power to construct roads, connect with, intersect or cross other lines—duty to receive each other's freight, etc.—Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states; and shall have the right, with its road, to intersect, connect with or cross any other railroad, and shall receive and transport each other's passengers, tonnage and cars.. loaded or empty, without delay or discrimination. (R. S. 1889, § 2626—p.)

SEC. 1123. Switch frogs to be blocked.—All companies or corporations, lessees or other persons, owning or operating any railroad or part of railroad in this state, are hereby required on or before the first day of November, eighteen hundred and ninety-one (1891), to adopt, put in use and maintain the best known appliances or inventions to fill or block all switches, frogs and guard-rails on their roads, in all yards, divisional and terminal stations, and where trains are made up, to prevent as far as possible the feet of employes or other persons from being caught therein. Any company or corporation, lessees or other person, owning or operating any railroad or part of railroad in this state, who shall fail to do any act or thing in this section required to be done, or shall cause any act or thing not to be done, or shall aid or abet any such omission, shall be deemed guilty of a violation of this law, and shall forfeit and pay the sum of ten dollars (\$10.00) for every such offense, and each day shall constitute a separate and distinct offense. (R. S. 1889, § 2627, amended, Laws 1891, p. 81—q.)

SEC. 1124. Next preceding section to be given in special charge to grand jury.—At every session of courts of record of this state having criminal jurisdiction, the judge thereof shall direct and charge grand juries to make special inquiry as to violation of this law. (Laws 1891, p. 81.)

SEC. 1125. *Id.* Penalty.—When any employe or other person shall be maimed or killed, by reason of the non-compliance with the provisions of section 1123, then in any suit for damages which may be instituted against any railroad company, corporation or lessee for

(p) Statute construed. 95 Mo. at 677; 97 Mo. at 466. Duty of switchman. 109 Mo. 187. Right of second company to cross tracks of first. 111 Mo. 666.
(q) 110 Mo. 312; 118 Mo. 541.

such maiming or killing, proof of contributory negligence or carelessness on the part of any employe or other person so maimed or killed shall not relieve such railroad company, corporation or lessee from liability. (R. S. 1889, § 2628—r.)

SEC. 1126. Freight, charges on, regulated.—No railroad corporation organized or doing business in this state, under any act of incorporation or general law of this state, now in force or which may be hereafter enacted, shall directly or indirectly charge or collect, for the transportation of goods, merchandise or property on its said road for any distance, any larger or greater amount, as toll or compensation, than is charged or collected for the transportation of similar quantities of the same class of goods, merchandise or property over a greater distance upon the same road, nor shall such corporation charge different rates for receiving, handling or delivering freight at different points on its road or roads connected therewith, which it has a right to use, nor shall any such railroad corporation charge or collect, for the transportation of goods, merchandise or property over any portion of its road, a greater amount as toll or compensation than shall be charged or collected by it for the transportation of similar quantities of the same class of goods, merchandise or property over any other portion of its road of equal distance; and all such rules, regulations or by-laws of any railroad corporation, as fix, prescribe or establish any greater toll or compensation than is hereinbefore prescribed, are hereby declared to be void. (R. S. 1889, § 2629—s.)

SEC. 1127. Railways declared public highways, and companies common carriers—discrimination prohibited—penalty.—Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and railroad companies common carriers. No railway company, corporation or association shall hereafter make any discrimination in charges or facilities in the transportation of freight or passengers between transportation companies and individuals, nor in the transportation of freight between commission merchants or other persons engaged in the transportation of freight and individuals, in favor of either, by abatement, drawback or otherwise, nor shall any such company, corporation or association, nor any lessee, manager or employe of any such company, corporation or association make any preference between the parties aforesaid in furnishing cars or motive power, for the purpose aforesaid. Any company, corporation or association, or manager, lessee or employe, violating the provisions of this section, shall forfeit and pay to the party injured the whole amount of such transportation charged, to be recovered before any court of competent jurisdiction: *Provided*, that excursion or commutation tickets may be issued at special rates. (R. S. 1889, § 2630—t.)

SEC. 1128. Railways declared public highways, and companies common carriers.—All railways heretofore constructed or that may hereafter be constructed in this state, are hereby

(r) 46 A. 268.

(s) Constitutional declaration that railways are "public highways" does not authorize use of track by foot travelers. 110 Mo. 273; 123 Mo. at 560.

(t) May contract to ship at lower rate than published tariff. 94 Mo. 453. That railways are highways and railroad corporations common carriers, does not exempt lands used for depot and yard from special taxes for street improvement. 123 Mo. 546. What is and what is not discrimination. 22 A. 224. Petition sufficient. *Id.* Insufficient. 114 Mo. 210. Retrospective operation. 38 A. 191. Also 123 Mo. 560.

declared to be public highways, and all individuals, companies, corporations, trustees, receivers and lessees running and operating cars and trains upon such railways, for the transportation of freight and passengers upon such railways, are hereby declared to be common carriers. All charges made for any services rendered in the transportation of freight on such railways, including the receiving, delivering, storing and handling of such property, shall be reasonable and just; and all unreasonable and unjust charges for such services are prohibited and declared unlawful. (R. S. 1889, § 2631—u.)

SEC. 1129. Discrimination prohibited.—If any such common carriers shall directly or indirectly, by any special rate, rebate, drawback or other device, charge, demand, collect or receive from any person or persons, firm or corporation a greater or less compensation for any service rendered in the transportation of any kind of property upon such railroad within this state than it charges, demands, collects or receives from any other person or persons, firm or corporation for doing for him or them a like service in the transportation of a like kind of property under substantially like circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared unlawful. (R. S. 1889, § 2632—v.)

SEC. 1130. Unjust discrimination defined and prohibited—car-load lots.—It shall be unlawful for any such common carrier to charge, collect, demand or receive more for transporting a car of freight than it at the same time charges, collects, demands or receives per car for several cars of a like class of freight over the same railroad, for the same distance, in the same direction, under substantially similar circumstances and conditions; or to charge, collect, demand or receive more for transporting a ton of freight than it charges, collects, demands or receives per ton for several tons of freight, under a car-load, of a like class of freight over the same railroad, for the same distance, in the same direction, under substantially similar circumstances and conditions; or to charge, collect, demand or receive more for transporting a hundred pounds of freight than it charges, collects, demands or receives per hundred for several hundred pounds of freight, under a ton, of a like class of freight over the same railroad, for the same distance, in the same direction, under substantially similar circumstances and conditions. All such discriminating rates, charges, collections or receipts, whether made directly or by means of any rebate, drawback or other shift or evasion, shall be deemed and taken against such railroad company as *prima facie* evidence of the unjust discrimination prohibited by this article: *Provided, however,* that for the protection and development of any new industry within this state, such railroad company may grant concessions in special rates for any agreed number of car-loads, but such special rates as aforesaid shall first be approved by the board of railroad commissioners, and a copy thereof filed in the office thereof. (R. S. 1889, § 2633.)

SEC. 1131. *Id.* In mixed freight—car-load lots.—It shall be unlawful for any such common carrier to charge, collect, demand or receive more for the transportation of any car of freight composed of several different classes of merchandise or freight, transported for the same owner to the same destination, than it at the same time

(u) 123 Mo. 560; 135 Mo. 266.

(v) 38 A. 191; 93 Mo. 530; 94 Mo. 453.

charges for the transportation of a car-load of freight of the highest class of merchandise or freight contained in said car-load of mixed freight: *Provided, however*, that such common carrier shall not be liable for any damages or loss in transportation growing out of or that is the natural and direct result of shipping the said several classes of freight in one car. (R. S. 1889, § 2634.)

SEC. 1132. *Id.* Less than car-load lots.—It shall be unlawful for any such common carrier to charge, collect, demand or receive more for the transportation of less than a car-load of freight when shipped to one owner, to one destination, than it at the same time charges for a car-load of like freight, or when the car is loaded with freight of several classes, more than it charges for the transportation of a car-load of the highest class of freight shipped in said car of mixed freight: *Provided*, that nothing in this section shall be construed to forbid a railway company from transporting freights in car-load lots at a less rate per hundred pounds than it charges, demands and receives per hundred pounds for like class of freight in quantities less than a car-load. (R. S. 1889, § 2635.)

SEC. 1133. Discrimination between persons or localities prohibited.—It shall be unlawful for any such common carrier to make or give any undue or unreasonable preference or advantage to any particular person, company or firm, corporation or locality, in the transportation of goods, wares and merchandise of any character, or to subject any particular person, firm, corporation or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage with respect to such transportation; and all such common carriers shall afford equal facilities for the interchange of traffic between their respective lines, and for receiving, forwarding and switching cars and delivering property to and from their lines, and to and from other lines and places connected therewith, and shall not discriminate in their accommodation, rates or charges between such connecting lines and places. But this provision shall not be construed as requiring such common carriers to give the use of their tracks or terminal facilities to other common carriers engaged in a similar business. (R. S. 1889, § 2636—w.)

SEC. 1134. Discrimination — long and short haul.—It shall be unlawful for any such common carrier to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property under similar circumstances and conditions for a shorter than a longer distance over the same line in the same direction: *Provided, however*, that nothing contained in this section shall apply to the carriage, storage or handling of property, either free or at reduced rates, for the United States, for the state of Missouri, or for any fair, exposition, religious, scientific, benevolent or charitable purposes. (R. S. 1889, § 2637—x.)

SEC. 1135. Pooling prohibited.—It shall be unlawful for any common carrier subject to the provisions of this article to enter into any contract, agreement or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate net proceeds of the earnings of such railroads, or any portion thereof; and in case of an agreement for the pooling of freights as aforesaid, each day of

(w) 33 A. 509; 50 A. 435; 94 Mo. 453; 119 Mo. 222.

(x) 119 Mo. 222.

its continuance shall be deemed a separate offense. (R. S. 1889, § 2638.)

SEC. 1136. Schedule of maximum rates posted in depots—duty of commissioners.—Every such common carrier shall print and keep for public inspection schedules showing the rates for freight which such carrier has established and which are in force at the time upon the railroad or railroads operated by it as defined in section 1128. Said rates shall be reasonable and just, and shall not in any case exceed the maximum rates which are or which may hereafter be established by law. Schedules as aforesaid shall contain the classifications of freight in force upon such railroad or railroads, and if there be any rules or regulations which change, determine or affect any part of the aggregate of such rates, fares and charges, such rules and regulations shall accompany such schedule. Copies of such schedules, also such rules and regulations, if any, shall be kept posted in every depot or station upon any such road, in such place where the same can be conveniently inspected by every person interested in the same. Copies of such schedules, also such rules and regulations, if any, shall be filed with the railroad commissioners of the state of Missouri, and from the date of such filing, the rates, fares and charges specified in such schedule, not being in excess of any statutory maximum rates now or that may hereafter be in force, shall be deemed the established rates, fares and charges of such common carrier until the same is changed as in this article provided. No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any such common carrier in compliance with the requirements of this article, except after ten days' public notice which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares and charges will go into effect; and the proposed changes shall be plainly indicated upon the schedules in force at the time, and kept for public inspection in like manner as herein provided. Reductions in such published rates, fares and charges may be made without previous public notice, but whenever any such reduction is made, notice of the same shall be immediately publicly posted, and the changes made shall be immediately plainly indicated upon the schedules in force at the time and kept for public inspection, and copies of the schedules containing such changes shall be forthwith filed with said railroad commissioners. Such changed schedules shall become the established schedules from the date of such public notice until changed as herein provided for changing schedules of rates, fares and charges. When any such common carrier shall have established and published its rates, fares and charges in compliance with the provisions of this article, the same not being in excess of any statutory maximum rates now or that may be hereafter in force, it shall be unlawful for any such common carrier to charge, demand, collect or receive from any person or persons a greater or less compensation for the transportation of property or for any service in connection therewith than is specified in such published schedules of rates, fares and charges as may at the time be in force, except as herein may be specifically permitted. It shall be the duty of the railroad commissioners to see that all schedules of rates prepared and adopted by common carriers are reasonable and just, and they may, upon complaint of any person, or upon their own motion and without complaint, make inquiry from time to time, and determine

whether the schedule of rates prepared and adopted by any such common carriers is reasonable and just. (R. S. 1889, § 2639—y.)

SEC. 1137. Joint tariffs, filed where.—In all cases where freight passes over continuous lines or routes within this state, such as is in section 1128 described, operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint rates, fares or charges for such continuous lines or routes, copies of such point tariffs shall also be filed with the railroad commissioners of this state, and shall be published in such manner as may be directed by the commissioners. (R. S. 1889, § 2640.)

SEC. 1138. Commissioners to enforce rates, make schedules, when.—It shall be the duty of said railroad commissioners to see that such schedules of joint rates, fares and charges are reasonable and just, and that such schedules of joint rates, fares and charges shall be observed by all the common carriers who are parties to the same. But no such common carrier, party to any such joint tariff, shall be liable for the failure of any other such common carrier, party thereto, to observe and adhere to the rates, fares and charges as made and published. If any such common carrier shall neglect or refuse, for a period of thirty days, to file or publish its schedules of rates, fares and charges, as provided for in this article or any part of the same, it shall be the duty of said railroad commissioners to make out and print a schedule or schedules of reasonable rates for such common carrier, and deliver copy or copies of the same to such common carrier. Such delivery shall be by messenger, by registered letter or by any sheriff in this state. It shall be the duty of every sheriff to serve and deliver the same whenever directed thereto by an order of said board of railroad commissioners, and shall return the same in like manner and with like effect to said board as in case of summons in civil suits. Such common carriers for whom such schedules shall be made by said board shall keep the same posted in their depots and stations, as required in this article for schedules made out by them in compliance with law; and the provisions of this article concerning the schedules required to be made by such commissioners, and the changing thereof, shall apply to the schedules made by said board as provided in this section. The costs of preparing, printing and delivering said schedules shall be paid by such common carrier, and shall be specified in an order of said board entered of record, and a copy of said order, certified by the secretary of said board, shall in any suit be *prima facie* evidence of the amount which ought to be paid, and may be recovered in an action in the name of the state, at the relation of said board, before any court or justice of the peace in this state having jurisdiction of the amount thereof. A copy of such schedules so made by said board, certified by the secretary of said board, shall, in proceedings wherein is involved the reasonableness and justness of the charges and rates of such commissioners, be *prima facie* evidence that rates therein fixed are reasonable and just. (R. S. 1889, § 2641—z.)

SEC. 1139. Rates continuous — breakage of bulk not to affect rates.—It shall be unlawful for any such common carrier as is described in section 1128 to enter into any combination, contract or agreement to prevent, by change of time schedule, carriage in different cars, or by any other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destina-

(y) 60 A. 335; 114 Mo. 215

(z) 114 Mo. 215.

tion within this state, and no break of bulk, stoppage or interruption made by such common carrier shall prevent the carriage of freight from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or evade any of the provisions of this act: *Provided*, that nothing herein contained shall be construed as requiring any railroad now belonging to class C, and connecting or crossing a trunk line or any branch thereof, to take and accept for its share and part of the earnings on freight that may be so received from such trunk line or any branch thereof, or shipped from its line over such trunk line or any branch thereof, a *pro rata* part of the total freight earnings from the point at which such shipment is received to the place of destination. (R. S. 1889, § 2642.)

SEC. 1140. Penalty — triple damages for violation of this act.—In case any such common carrier shall do or cause to be done any act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act or thing in this act required to be done, then such common carrier shall be liable to the person or persons injured thereby for three times the amount of damages sustained in consequence of the violation of the provisions of this act, together with a reasonable attorney's fee, to be fixed by the court, which fee shall be taxed and collected as part of the costs in the case. (R. S. 1889, § 2643—a.)

SEC. 1141. Damages, proceedings for.—Any person or persons claiming to be damaged by any common carrier by reason of any violation of the provisions of this act may bring suit therefor in any circuit court of any county or city into or through which the line operated by such common carrier enters or passes, and such person or persons may make complaint as hereinafter provided to the railroad commissioners. And if any proceeding is commenced under the provisions of this act, either in a court or before the said railroad commissioners, the tribunal before which such proceeding shall be pending may compel any director, officer, receiver, trustee, agent or employe of the common carrier complained of in such suit to attend as a witness and testify in such proceeding, and may also compel the production of the necessary books, papers and documents of such common carriers. (R. S. 1889, § 2544—b.)

SEC. 1142. Penalty by forfeiture for violation of act.—Any such common carrier in section 1128 described, or any of its officers, agents or employes, including receivers, trustees and lessees, who alone, or with any other person, company or corporation, shall do or cause to be done, or shall permit to be done, any act, matter or thing in this act prohibited, or declared to be unlawful, or shall aid or abet therein, or fail to do any act or thing in this act required to be done, or shall cause any act or thing not to be done which this act directs shall be done, or shall aid or abet any such omission, shall be deemed guilty of a violation of the law, and shall forfeit a sum not exceeding five thousand dollars for each and every offense. (R. S. 1889, § 2645.)

SEC. 1143. Commissioners to see to enforcement of article—investigate complaints.—It shall be the duty of the railroad commissioners of this state to see that the provisions of this

(a) 111 Mo. 18; 114 Mo. 212; 118 Mo. 506; 119 Mo. 223.

(b) 135 Mo. 266.

article are enforced. When complaint is made in writing by any person having an interest in the matter about which complaint is made, that any rate or rates established by any common carrier are unreasonable, unjust and extortionate, or that any of the provisions of this article have been or are being violated, it shall be the duty of said railroad commissioners to proceed at once to investigate such complaint and determine the truth of the same, and for that purpose said railroad commissioners shall have power to summon witnesses and to require the production of any necessary books, papers or written documents in possession of the common carrier complained of, and to this end written or printed communications, signed by any one of such railroad commissioners and attested by the secretary of such commission, under seal and sent by registered letter through the mail or delivered personally to the person addressed, shall be deemed a sufficient service. Witnesses so summoned by said commissioners shall be entitled to the same fees as are allowed in circuit courts in civil cases. In case of the failure or refusal of any person or persons so summoned to attend and testify at the time and place specified in said summons, or to produce any designated books, papers or documents required or called for, as provided for in this section, such person or persons failing shall be deemed guilty of contempt, and said railroad commissioners shall have power to impose such penalties as the circuit court of this state may impose for like offenses; and if any common carrier, or any officer, agent or servant thereof, shall willfully or knowingly obstruct or prevent said railroad commissioners from making such investigations as are authorized by this act, they shall be deemed guilty of a misdemeanor, and on conviction thereof, may be punished by fine not exceeding five hundred dollars. For the purpose of conducting such examination, such railroad commissioners, or any of them, shall have the power to administer oaths or affirmations, and they shall prescribe such rules and regulations for the conduct of such investigation as they may deem best to enable them to arrive at the facts, but in every case a full and fair hearing shall be accorded to all parties having an interest in such case. Such railroad commissioners may institute any inquiry, on their own motion, in the same manner and to the same effect as though complaint had been made. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. (R. S. 1889, § 2646.)

SEC. 1144. Forfeitures, how recovered and disposed of. The forfeitures and penalties herein provided for shall go to the county school fund of the county where sued for, and may be recovered in a civil action in the name of the state of Missouri, at the relation of the board of railroad commissioners to the use of said fund, in any county where the complainant resides, if in the state, and if not, then where the offense may occur, or into or through which the railroad operated by the common carrier offending, or on which it operates, may run. It shall be the duty of the circuit or prosecuting attorney, and such additional counsel residing in such county as said board may employ, to prosecute the same when directed by said board, and the attorneys prosecuting such suit shall receive for their services, out of the amount collected by the suit, the compensation allowed by law for collections made on forfeited recognizances. The attorney-general shall assist in the prosecution when directed by the board of railroad commissioners. And all suits instituted under the provisions of this act shall have

precedence in all courts having jurisdiction thereof over all other suits therein except criminal actions. (R. S. 1889, § 2647.)

Sec. 1145. Findings of commissioners—order—attorney-general may prosecute on.—Said railroad commissioners shall render a decision in every case investigated in accordance with the facts thereby ascertained, and which shall embrace a summary statement of such facts. In case that said railroad commissioners shall find in any case that such common carrier has been guilty of any violation of this article, they shall incorporate such finding in said decision, and also an order to such common carrier to desist immediately from such violation. In case they shall find that any injury or damage to any person or persons making complaint as aforesaid has accrued by reason of such violation, they shall award the amount thereof, and incorporate in their decision a statement thereof, and the names of the person or persons so damaged, together with an order to such common carrier to pay the same to such person by date to be therein specified. In case that any such decision shall be against any such common carrier, it shall pay all costs of the investigation, which costs shall be specified in the decision of the said commissioners, together with an order to pay to them immediately the amount thereof. A copy of such decision, signed by the commissioners and attested by their secretary, and sealed with their seal, shall be furnished to each party in interest, either personally, by registered letter, or in such other manner as the commissioners may deem sufficient. Said commissioners shall make and preserve a record of all proceedings in every investigation, and of their decision therein, which shall be a public record, and open to the inspection of any citizen of this state. And if such common carrier shall fail or refuse to pay the amount adjudged to be due, on or before the day specified aforesaid, said commissioners may at their own instance, and shall when requested by the person or persons injured or damaged, cause the attorney-general or the prosecuting attorney of the proper county to institute suit against such common carrier in the name of the state of Missouri, at the relation and to the use of the party injured or damaged, to enforce the payment thereof, together with costs; and upon the trial of such cause a certified copy of the award and decision of said commissioners shall be received as *prima facie* evidence of each and every fact therein stated; and *provided, however*, that the person or persons to whom such damages are due may institute suit for same in his own name. If the result of such examination be in favor of such common carrier, the amount of such costs shall be by the commissioners certified to the state auditor, who shall issue a warrant for the payment thereof out of any money in the state treasury appropriated for that purpose. (R. S. 1889, § 2648.)

Sec. 1146. Further duty of commissioners on complaints.—Where complaint is made as herein provided, and the commissioners are satisfied that if true it contains a substantial charge that some one or more of the provisions of this act have been violated or are being violated, they may proceed informally by letter or otherwise to investigate and settle the matter complained of with the common carrier of whom complaint is made, or they may proceed to make a preliminary investigation as to the truth of the charge; if satisfied that there is sufficient ground for complaint, and that the matters complained of cannot be adjusted without a formal hearing, they shall fix a day for such hearing and notify both parties, which notice shall be in writing, either by letter or some other form, such as said com-

missioners may deem sufficient. At such hearing both parties shall have full opportunity to be heard. The commissioners shall have the power to adopt all such necessary rules and regulations as to method of proceedings, including the making up of issues, taking testimony, preserving the same, hearing arguments, making orders and awards, granting continuances and rehearings, and all such other matters as may be necessary to a full and final disposition of the complaint. If upon any investigation had by the railroad commissioners under the provisions of this article, such railroad commissioners shall find from the testimony of witnesses or other evidence that anything has been done or omitted to be done by any such common carrier in violation of the provisions of this act, or of any law of this state cognizable by said railroad commissioners, or that any common carrier proposes to do or omits to be done anything in violation of the provisions of this act, it shall be the duty of such railroad commissioners forthwith to cause a copy of their finding in respect thereto to be delivered to such common carrier, with a notice to such common carrier to cease or desist from such violation within a reasonable time, to be specified by such railroad commissioners. (R. S. 1889, § 2649.)

SEC. 1147. *Id.* Notice to corporation on complaint, how served.—When the complaint specified in section 1143 shall allege that unreasonable charges are made by any such common carrier or carriers subject to the provisions of this act, for the transportation of any freight thereby, or that the rates specified upon the schedule or schedules of rates made by such common carrier or carriers, in obedience to the provisions of this act, are unjust, unreasonable or extortionate, it shall be the duty of the board of railroad commissioners, if in their opinion the facts alleged present a just cause of complaint, and if upon hearing there appears to said board to be reasonable grounds for believing that the facts so alleged are true, and if in the opinion of the board the public good will be promoted by an examination thereof, to give notice in writing to the common carrier or carriers against which such complaint shall have been made of the fact and nature thereof, and shall specify in such notice the charges by it made, and the rates specified upon its schedules which are alleged to be unjust, unreasonable or extortionate. Such notice shall be attested by the secretary of said board, under the seal thereof, and shall be served upon such common carrier or carriers against which such complaint is made, by delivering a copy thereof at the general office of such common carrier or carriers, to any person in charge thereof, or to any agent thereof at any depot or station thereof, or on which such common carrier or carriers operate, by any messenger appointed by said board who would be a competent witness in a suit at law in this state, or by any officer authorized to serve process, or by sending the same by registered letter to such common carrier or carriers at such general office, or to any such agent having charge of such depot or station as aforesaid. (R. S. 1889, § 2650.)

SEC. 1148. *Id.* Further action on complaint.—If such common carrier or carriers shall not, within ten days after the service of such notice as aforesaid, change or modify such charges or rates specified in such notice in a manner and to an extent satisfactory to said board, then said board may proceed to examine and investigate the matters alleged in said complaint, and for that purpose may give notice to the parties making, and against whom is made, such complaint—said notice to be served as provided for the service of notices as

aforesaid, wherein it shall require such common carrier or carriers to show cause before said board at any place within this state in said notice specified, and upon a date not less than ten days after the service thereof, why said charges or rates should not be modified or changed. (R. S. 1889, § 2651.)

Sec. 1149. Hearing on complaint—order.—If upon such examination it shall appear to said board, upon a full and fair hearing of the parties to said complaint, that the facts therein alleged are true, and that such charges or rates should be changed or modified, then said board shall, by an order entered upon the records thereof, find and determine what would be reasonable and just charges or rates for the transportation by such common carrier or carriers complained of, freight of the class for which such charges or rates complained of were made; and a certified copy of such finding and order so made under the seal of said board, attested by the secretary thereof, shall be delivered to the complainants and such common carrier or carriers against which such complaint is made, by registered letter or otherwise, as may be prescribed by the rules of said board. The rates or charges so found and determined by said order, proven by a copy thereof certified as aforesaid, shall, in any and all proceedings wherein is involved the reasonableness and justness of the rates and charges by such common carrier or carriers, be *prima facie* evidence that the same are reasonable and just. Such order may be revoked or modified and renewed from time to time by said board, but no revocation or modification thereof shall go into effect until ten days after the order therefor shall be made. (R. S. 1889, § 2652.)

Sec. 1150. Proceedings when order of commissioners is disobeyed—circuit court—enforce or renew order—proceedings.—Where the complaint involves either a private or a public question as aforesaid, and the commissioners have made a lawful order or requirement in relation thereto, and where such common carrier, or the proper officer, agent or employe thereof, shall violate, refuse or neglect to obey any such order or requirement, it shall be lawful for the board of railroad commissioners, or any person or company interested in such order or requirement, to apply in a summary way, by petition, to any circuit court at any county in this state into or through which the line of railway of the said common carrier enters or runs, alleging such violation or disobedience as the case may be; and the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable. And such notice may be served on such common carrier, its officers, agents or servants in such manner as the court may direct; and said court shall proceed to hear and determine the matter speedily in such manner as to do justice in the premises; and to this end said court shall have power, if it thinks fit, to direct, and prosecute in such mode and by such persons as it may appoint, all such inquiries as may seem needful to enable it to form a just judgment in the matter of such petition. On such hearing the report of said commissioners shall be *prima facie* evidence of the matter therein stated; and if it be made to appear to the court on such hearing, or on report of such persons appointed as aforesaid, that the lawful orders or requirements of such commissioners drawn in question have been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process mandatory or otherwise, to re-

strain such common carrier from further continuing such violation of such order or requirement of said commissioners, and enjoin obedience to the same. If such court shall hold and decide that any order of said board of railroad commissioners involved in such proceeding was not a lawful order, said court shall, without any reference to the regularity or legality of the proceedings of said board or of the order thereof, proceed to make such order as the said board should have made, and to enforce said order by the process of said court, and to enforce and collect the forfeitures and penalties herein provided in all respects according to the provisions of this act. And in case of any disobedience of any such injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or other proper process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier; and if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ of injunction or other process, mandatory or otherwise; and said court may make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of one hundred dollars per day, for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such money shall be payable to the school fund of the county in which such proceeding is pending; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution in like manner as if the same had been recovered by final decree *in personam* in such court. When the subject in dispute shall be of the value of one hundred dollars or more, either party to such proceeding before such court may appeal to the proper appellate court in the state in the same manner that appeals are taken from such courts in the state in other proceedings involving like sums of money; but such appeal shall not operate to stay or supersede the order of the court, the execution of any writ or process thereon, unless stay of proceedings be ordered by the court from which the appeal is taken, or by appellate court to which the appeal is taken, upon the application of the appealing party. Whenever any such petition shall be filed by commissioners as aforesaid, it shall be the duty of the attorney-general, when requested by said commissioners, to prosecute the suit. All proceedings commenced upon such petition shall, upon application of the petitioner, be advanced upon the docket and take precedence over any other case upon the docket except criminal cases. The costs of such proceedings may be, with the approval of the attorney-general and governor of the state, when such suit is brought by any person, and when brought by said commissioners shall be paid by the commissioners to be paid, in the first instance, out of any moneys in the treasury not otherwise appropriated; and if upon final judgment the decision is against the said common carrier or other person against whom the proceeding is being prosecuted, such common carrier or person shall be liable for the costs, for which judgment shall be rendered as in any other case. (R. S. 1889, § 2653.)

SEC. 1151. *Id.* Court may establish rate by judgment. Upon any hearing by any court of any matter involving the real

ness or unreasonableness of the rates charged or proposed to be charged by any such common carrier in its schedule or schedules of rates, the court shall make a finding as to what, in its opinion, is a reasonable and just rate of charge to be made by such common carrier, and shall thereupon enter judgment in accordance with such finding, and make orders enforcing the same. (R. S. 1889, § 2654.)

SEC. 1152. *Id.* Court may modify order.—Any finding and judgment made under the provisions of the preceding section may be reviewed and changed or modified by the court rendering the same at any time, upon the application by petition of any common carrier affected thereby, or upon like application by the railroad commissioners; but no such application shall be considered by the court unless at least ten days' notice of the time and place of making the same, and a copy of the petition, be served on the commissioners or common carrier, by or on behalf of the party making such application. (R. S. 1889, § 2655.)

SEC. 1153. Act applies to all shipments, how.—All the provisions of this article shall be held to apply to shipments made from any point within the state to any point within the state, whether the transportation of the same shall be wholly within this state or partly within this and adjoining state or states. (R. S. 1889, § 2656.)

SEC. 1154. Commissioners liable to *madamus* and fine.—In case that the railroad commissioners shall fail or refuse to perform any act or duty required of them by this article, they shall be liable to proceedings in *mandamus* to compel the performance of such act or duty, and in addition thereto shall be liable to such fine as the court may impose, not exceeding five hundred dollars. A majority of the railroad commissioners shall constitute a quorum to do business, and any act or decision of any two of them shall be taken as the act or decision of the commissioners. (R. S. 1889, § 2657.)

SEC. 1155. Appropriation to carry out act.—To defray the necessary expenses of the railroad commissioners in making investigations and prosecuting suits, and to pay all necessary costs attending the same, there is hereby appropriated, out of any money in the state treasury not otherwise appropriated, the sum of ten thousand dollars, to be drawn upon the warrant of the state auditor, issued upon the requisition of the railroad commissioners, approved by the governor, which requisition shall be accompanied by an itemized statement of the costs and expenses to be paid. (R. S. 1889, § 2658.)

SEC. 1156. This article not to repeal any other law.—This article is not intended to repeal any law now in force, unless in direct conflict therewith, but is intended to be supplemental to such laws. (R. S. 1889, § 2659—c.)

SEC. 1157. Express companies to have facilities.—Whenever any express company authorized to do business in the state of Missouri shall desire to carry on their express business along and on the line of any railroad in the state, and shall make application to the officers or managers of any railroad for cars, transportation and other proper facilities to carry on their said business, it shall be the duty of the said railroad company to make such arrangement and provide such facilities as will enable said express company to carry on and transact its said express business, and to receive and discharge freight, valuables, money, jewelry and other property entrusted to it for transportation, at all the stations and stopping places on the line of said rail-

road, and it shall be no excuse for refusing such facilities that another express company is already furnished with facilities and is actually doing business on the said railroad. (R. S. 1889, § 2660.)

SEC. 1158. *Id.* All express companies served alike.—Any railroad company owning or operating a railway in this state, that shall refuse or deny any of the rights and privileges granted to any other express company to the express company so applying for facilities to carry on their said business on and along the line of the said railroad, or shall charge, take from or receive any greater or different toll, charge or rent for the privilege of carrying on their said express business, or for like services, than it at the same time charges or receives from any other express company, shall forfeit and pay for every such refusal, denial of facilities to carry on their said business, or for discrimination in favor of any one express company against another, any sum not less than five hundred dollars nor more than one thousand dollars, to be recovered by civil action in any court of competent jurisdiction. (R. S. 1889, § 2661.)

SEC. 1159. *Id.* Duty of commissioners.—The railroad commissioners are hereby required to take jurisdiction of all violations of the provisions of this act, and see that competition in the express business is not prevented by the refusal of said railroad companies to provide facilities to more than one express company to carry on their express business on and along the line of the said railroads at the same time; and whenever the railroad commissioners shall in any manner come into possession of information which, in their judgment, warrants prosecution of any railroad company for preventing competition in the express business by refusing to grant facilities, on equal terms, to two or more express companies on and along the line of their railway, or for the violation of any of the provisions of this act, it shall be the duty of the said commissioners immediately to cause suits to be commenced and prosecuted against such railroad company. Such suits may be instituted in any county in the state into or through which the line of the railroad company sued for violating the act may run, and it is hereby made the duty of the attorney-general and of any prosecuting attorney in the state, at the request of the railroad commissioners, to commence and prosecute any actions the said commissioners may desire to institute for the violation of any of the provisions of this act. (R. S. 1889, § 2662.)

SEC. 1160. Penalty for overcharges on freight.—Any railroad corporation which shall fix, demand, take or receive, from any person or persons, any greater toll or compensation for the transportation, receipt, handling or delivery of goods or merchandise, in violation of the provisions of this article, shall forfeit and pay for any such offense any sum not exceeding one thousand dollars, and costs of suit, including a reasonable attorney's fee, to be taxed by any court where the same is heard by appeal or otherwise, to be recovered by civil action by the party aggrieved, in any court having jurisdiction thereof; and any officer, agent or employe of any such railroad corporation who shall knowingly or willfully violate the provisions of this article shall be liable to the penalties prescribed in this section. (R. S. 1889, § 2663.)

SEC. 1161. Corporate powers to cease, when.—If any corporation formed under this article shall not, within two years after its

articles of association are filed and recorded in the office of the secretary of state, begin the construction of its road, and shall not within one year thereafter expend thereon not less than ten per cent. on the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease: *Provided*, that if a portion of their road shall be finished and in operation, they shall continue their corporate existence, with power to hold and manage the portion of their road so constructed, and for no other purpose. (R. S. 1889, § 2664—d.)

SEC. 1162. Existing and future corporations governed by this article.—All existing railroad corporations within this state, and such as may be hereafter chartered or formed, shall, respectively, have and possess all the powers and privileges contained in this article; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter herein contained. (R. S. 1889, § 2665.)

SEC. 1163. Railroad corporation defined.—The term “railroad corporation” contained in this chapter shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate, any railroad in this state. (R. S. 1889, § 2666.)

SEC. 1164. Union depots—how constructed—corporation for—railroad company may construct.—In order to facilitate the public convenience and safety in the transmission of goods and passengers in and in the neighborhood of large cities, from one railroad to another, and to prevent the unnecessary expense, inconvenience and loss attending the accumulation of a number of stations, any number of persons, not less than five, or any such number of persons, not less than five, and any railroad company or companies, are hereby authorized to form themselves into a corporation under the general laws of this state, relating to private corporations, for the purpose of constructing, establishing and maintaining a union station for passengers or freight depots, or for both, in or in the neighborhood of any city of this state, with the necessary offices and rooms convenient therefor, and the appurtenances thereto, and, for that purpose, may make and sign articles in which shall be stated the number of years the same is to continue, the city in which the same is to be located, the amount of the capital stock of said company, which shall not exceed ten millions of dollars, the amount of each share of stock, the names and places of residence of its directors who shall manage its affairs for the first year and until others are chosen in their place, the number of its directors which shall not be less than five nor more than thirteen, and shall also state the amount of stock taken by each subscriber. And any railroad company may construct, build, operate and maintain a union station in, or in the neighborhood of any city of this state, for passengers or freight depots, or for both, with the necessary offices and rooms convenient therefor, and the appurtenances thereto, and shall have like powers in connection with any such union station or depots, or both, as are possessed by union depot companies formed under this act. (R. S. 1889, § 2667, amended—e.)

(d) After decree of forfeiture, unsold property would vest in directors. 96 Mo. 174. Section construed. 129 Mo. 62; 52 A. 439; 66 Mo. 228.

(e) 125 Mo. 82.

SEC. 1165. Powers of such corporation or railroad company.—Every corporation formed under the preceding section, and every railroad company which may build and operate a union station or depot under said section, shall, in addition to the general powers conferred by the laws of this state, in relation to corporations, have power: First, to take and hold for the purposes mentioned in said section, such real estate, and railroad and other property, as it may acquire by conveyance to said corporation, and such real estate as it may acquire under the provisions of said previous section, by condemnation; second, to take, occupy, and condemn any lands and real estate needed for the establishment of such union station or depot, or the terminal facilities in connection therewith, and the same proceedings shall be had therefor as provided by law relating to the appropriation and valuation of land taken for telegraph, macadamized, graded, plank, or railroad purposes, so far as applicable thereto, and when so condemned, the said land and any interest therein shall belong to such corporation as owner thereof; third, to hold and acquire, by purchase or condemnation, any such real estate as may be requisite or necessary for the purpose of constructing, erecting, maintaining and operating terminal facilities for the use of the railroads occupying or having access to such union station or depot, and also to build, maintain and operate terminal railroads and terminal facilities to be used in connection with such union station or depot, and to build, maintain and operate railroads and bridges over navigable streams, or otherwise, and to construct tunnels as and for approaches to said union station or depot, and to such extent as may be deemed necessary by the corporation operating and maintaining such union station or depot, and for such purposes to acquire property and extend its terminal facilities beyond the limits of this state, and also to transport, or permit to be transported persons and property over such railroads and bridges as may be built by any corporation operating hereunder, and to charge compensation therefor; fourth, to have the right to lay the necessary tracks across, over, upon or under such streets of the city in which said station or depot is to be constructed, and across, over, upon or under such roads of the county or counties into which such terminal facilities are to be extended, as may be necessary in order to make the necessary connections with all such railroads as are to have access to said station or depot, and also to construct such station or depot, across, under, over or upon any such streets or roads: *Provided*, that nothing herein contained shall be construed to authorize the construction of such tracks, or station or depot, not already located, across, under, over or upon any street in a city or a road of any county, without the assent of the corporate authorities of such city or the county court of such county; fifth, from time to time, to borrow such sums of money as may be necessary for the construction, completion, equipment, maintenance, finishing, operating or repairing of such station or depot, and the terminal facilities connected therewith, or for the purpose of funding its floating debt, or refunding its bonded debt, or for the purpose of making additions, alterations or betterments to its property, authorized by its charter, or for making any connection with any railroad which is to have access to such union station or depot, or with any bridge or tunnel connected with or forming a part of such terminal facilities, or for the construction, alteration or repair of any such bridge or tunnel connected with or forming a part of such terminal facilities, and for any or

all of the above named purposes, may issue, sell, hypothecate and dispose of its corporate bonds for such amounts, and at such prices as may by such corporation be deemed proper for obtaining any amount so borrowed, and may mortgage its corporate property and franchise or franchises, or any part, or parts, thereof, to secure the payment of such bonds or of any debt so contracted by such corporation for any of the purposes aforesaid; sixth, to open, from time to time, books of subscription to the remainder of the capital stock not taken by the subscribers to the articles of association: *Provided, however*, that any company organized under this act shall not have the power by condemnation to acquire the property now owned by any other union depot company or railroad company and used or needed for its corporate purposes, but any company formed hereunder shall have the same right and power to intersect, connect with and cross other railroads with its tracks and to join and unite its tracks with those of similar companies or railroad companies as is by the constitution and laws of this state conferred upon railroad companies, and the same method of ascertaining the compensation to be made therefor shall apply as is provided in the case of railroad companies under similar circumstances. (R. S. 1889, § 2668, amended.)

Sec. 1166. Stock-yards and cars—cleaned.—It shall be unlawful for any railroad or stock-yard company or corporation, or any agent, servant or employe of any railroad or stock-yard company or corporation, to unload, between the first day of June and the first day of November of each year, or empty or clean out, any pen or stock-yard, or any car or cars in which any cattle, horses, mules, sheep, swine or other live stock have been confined or shipped, on any but lands inclosed by a lawful fence and not in or adjacent to any springs or running stream of water. And it is hereby made the duty of every railroad corporation in this state to thoroughly clean all its cars for the transportation of live stock and other property, and to furnish all cars to the person or persons ordering same at the point of shipment, thoroughly cleaned and in good condition for the transportation of such stock, goods or material to be shipped or transported. Any railroad company, corporation or person offending against the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than fifty nor more than five hundred dollars. (R. S. 1889, § 2669—f.)

Sec. 1167. Penalty for violation of preceding section. In every case where any animal belonging to another shall become diseased or die by reason of the non-compliance of any railroad company or corporation with the provisions of the preceding section, the owner of such animal may recover against such railroad company or corporation the full amount of all damages, together with all costs of prosecution. (R. S. 1889, § 2670.)

Sec. 1168. Time for the completion of certain roads extended.—The time within which any railroad company now organized under the general laws of this state relating to railroads and railroad companies, shall finish its railroad and put the same in operation, shall be extended three years beyond the expiration of ten years from and after the filing of its articles of association in the office of the secretary of state: *Provided*, that at the expiration of said ten years, such railroad company shall have finished and put in operation thirty per

cent. of the whole length of its proposed road; and such railroad company shall have and possess all the rights to complete, maintain and operate such road, to which it would have been entitled had its road been finished and put in operation within the aforesaid ten years: *Provided*, that this section shall be operative for the purpose of the completion, maintenance and operation of such railroads only, and for no other purpose, and that at the expiration of ten years from the time such companies were incorporated, all rights that such railroad companies might have during the period of ten years next after their incorporation to the subscription of stock in aid of the uncompleted portion of such railroads, subscribed by any individual, county, town, township or part of township in this state, or by any other association whatever, shall cease, and such subscription shall become void: *Provided*, that nothing in this section shall be so construed as to bind or hold any person, county, city, town or township or any part of said county, city, town or township liable on any subscription heretofore made to any railroad company whose rights are extended by the provisions of this section; and *provided further*, that this section shall not apply to any road whose articles of incorporation shall have been filed ten years or more prior to the passage of this section, nor shall any railroad company be entitled to the provisions of this section until it shall have filed with the secretary of state an unconditional release, duly executed and acknowledged by the proper officer or officers of such company, discharging all individuals, counties, towns, cities, townships and parts of townships from all stock or aid subscribed, voted or promised in aid of the construction or maintenance of such railroad in the counties through which said company may fail to complete its road by the 29th day of June, 1879. (R. S. 1889, § 2671.)

SEC. 1169. Duty of railroad companies to maintain connecting switches, when.—It shall be the duty of every railroad corporation or corporations, owning or operating any railroad or railroads in this state, upon an order from the railroad and warehouse commissioners so to do, upon petition to said railroad and warehouse commissioners by not less than ten persons who may deem themselves interested, to construct and maintain spurs or switches at any place in this state where any railroad or railroads cross each other at grade, so as to permit shipments and loaded cars to be transferred and transported from any one of such railroads so crossing another into the custody of the railroad so crossed. (Laws 1891, p. 81.)

SEC. 1170. Live stock to have precedence in shipment over dead freight.—Whenever dead freight and live stock come in competition with each other for shipment at any such railroad crossing, it shall be the duty of the corporation contracting or engaged in shipping live stock, to ship the live stock without delay, and to give such preference in being moved over dead freight so being shipped from the place of such crossing, or arriving at any such point from any other place on any one of such roads so crossing each other. (Laws 1891, p. 81.)

SEC. 1171. Penalty for failure to comply with preceding sections.—Any railroad corporation or corporations owning or operating any such railroads so crossing each other as aforesaid shall build, construct and maintain such spurs and switches as provided by the provisions of this act, within ninety days after the receipt of any such order from the railroad and warehouse commissioners, and

to maintain the same for the purposes of this act, and for failure so to do, such corporation, so being ordered as aforesaid, shall for each offense pay to the county in which such crossing may be, for the use of the school fund of such county, the sum of five hundred dollars, to be recovered by civil action by such county. (Laws 1891, p. 81.)

SEC. 1172. Depots to be maintained at grade crossings, when.—The board of railroad and warehouse commissioners shall have authority, whenever, in the opinion of the board, the public service demands it, to require railway companies, whose tracks cross each other at grade, to construct and maintain joint depots and stations at such crossings, upon sixty (60) days' notice to the railroad companies to be affected by such order. (Laws 1895, p. 116.)

SEC. 1173. Formation of corporation to build line from county seat to railroad or river.—For the sole purpose of connecting county seats in the state of Missouri with railroads, or with the Missouri or Mississippi rivers, where such connection does not already exist, it shall be lawful for any number of citizens of such county, not less than five in number, to form a corporation, with whatever amount of capital stock may be deemed necessary by such citizens, for the purpose of building an electric railroad from such county seat to some other railroad, or to the Missouri or Mississippi rivers, as before stated. (Laws 1893, p. 127, amended laws 1895, p. 117.)

SEC. 1174. Powers and duties.—Such incorporation shall possess all the rights, privileges and powers given to any railroad corporation by the laws of this state, and in addition thereto, shall not be required to have any greater amount of stock than to the incorporators thereof may seem necessary; *and provided further*, that said corporation shall have power to create whatever amount of bonded indebtedness such corporation may deem necessary. (Laws 1893, p. 127.)

ARTICLE III.*

STREET RAILROADS.

SECTION

- 1175. Street railroad companies authorized to operate parallel roads.
- 1176. Cable roads may be operated on parallel lines.
- 1177. Repugnant act repealed.
- 1178. Roads may be used to carry mails.
- 1179. Street railroads operating cars by electricity or overhead wires—guard wires and fenders.
- 1180. Duty of street railway companies where tracks cross railroad tracks.
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SECTION

- 1182. Sales of railway equipment and rolling stock—conditional sales.
- 1183. Conditional contracts of sale or lease to be recorded.
- 1184. Article not to invalidate existing contracts.
- 1185. Sections 3410, 3412 and 3413, R. S. 1899, not to apply to such contracts.
- 1186. Requirements for incorporating street railway companies.
- 1187. Powers of corporation.
- 1188. Street railway companies may accept provisions of this article.
- 1189. Increase of capital stock and bonded indebtedness provided for.
- 1190. Preferred stock authorized.

SEC. 1175. Street railroad companies authorized to operate parallel roads.—All existing street railroad companies organized under the laws of this state, which have acquired the consent of the municipal authorities of any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village, for street railroad purposes, are hereby authorized and empowered to lay their track or tracks, and operate their cars thereon, or

*Revised bill.

operate their roads already constructed on the street or streets, for the full time such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed. (R. S. 1889, § 8298.)

SEC. 1176. Cable roads may be operated on parallel lines. All existing street railroad companies organized under the laws of this state, and all railroad companies authorized to propel their cars, in whole or in part, by means of a cable under the surface of the street, which have acquired the consent of the municipal authorities of any city, town or village to the use and occupancy by a defined route of any of the streets of such city, town or village for street railroad purposes, are hereby authorized and empowered to construct their roadbeds, including conduit for cable, and lay their track or tracks, and operate their cars thereon for the full time for which such consent has already been given, notwithstanding such road or roads may be nearer to a parallel road than the third parallel street from any road now constructed. (R. S. 1889, § 8300—ff.)

SEC. 1177. Repugnant act repealed.—Section 3 of an act entitled "An act concerning street railroads in the city of St. Louis," approved January 16, 1860, insofar as the same is inconsistent with or repugnant to the provisions of this article, is hereby repealed. (R. S. 1889, § 8301.)

SEC. 1178. Roads may be used to carry mails.—Street railroad companies are hereby authorized for such compensation as may be agreed upon, to permit their roads to be used for carrying and distributing United States mail along the routes of such roads, and to furnish proper facilities therefor: *Provided, however*, that such use shall not impede or delay the transportation of passengers over such roads. (Laws 1891, p. 97.)

SEC. 1179. Street railroads operating cars by electricity or overhead wires—guard wires and fenders.—All street railway companies or corporations operating cars by electricity, or by overhead wires, shall construct and maintain its wires at a height of not less than twenty-two feet above the top of the rail of the railroad track crossed by such street railway company, and the wires of such street railway company shall be guarded, or provided with fenders or guard wires, so as to prevent the same from coming in contact with the cars, track or telegraph line along the track of such railroad company. (Laws 1895, p. 123.)

SEC. 1180. Duty of street railway companies where tracks cross railroad tracks.—It shall be the duty of every street railway company or corporation operating a street railway across the tracks of a railroad company to bring its cars to a full stop at least ten and not more than twenty feet before reaching the tracks of the railroad company. And it shall be the duty of the conductor, or some other employe of the street railway company, to go forward to the tracks of such railroad company for the purpose of ascertaining whether a train is approaching such crossing. (Laws 1895, p. 123.)

SEC. 1181. May construct and operate street railways over bridges connecting any city in this state with any city of an adjoining state.—Any company owning, leasing, operating or controlling a bridge connecting any city, town or village in this

(ff) "3rd parallel law" unconstitutional. 151 Mo. 162. *Id.* Power in city to authorize street railroad to extend its termini over such excluded streets.

state, with any city, town or village of any adjoining state, may lease, own, construct and operate a street railway over such bridge and in such cities, towns or villages and counties in which same may be situated, and in adjoining counties, and may also acquire and hold stock and guarantee bonds of any company operating such street railway or railways. (Laws 1897, p. 98.)

SEC. 1182. Sales of railway equipment and rolling stock—conditional sales.—In any contract for the sale of railroad or street railway equipment, or rolling stock, it shall be lawful to agree that the title to the property sold, or contracted to be sold, although possession thereof may be delivered immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money; and in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee: *Provided*, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent *bona fide* purchaser for value and without notice, unless:

First, the same shall be evidenced by an instrument executed by the parties, and duly acknowledged by the vendee or lessee or bailee, as the case may be, or duly proved before some person authorized by law to take acknowledgment or deeds, and in the same manner as deeds are acknowledged or proved;

Second, such instrument shall be filed for record in the office of the secretary of state;

Third, each locomotive engine or car so sold, leased or hired, or contracted to be sold, leased or hired, as aforesaid, shall have the name of the vendor, lessor or bailor plainly marked on each side thereof, followed by the word "owner," or "lessor," or "bailor," as the case may be, which mark or marks shall be effaced immediately upon the payment or satisfaction of the indebtedness or incumbrance thereon; and every corporation, person or persons, which shall fail, neglect or refuse to comply with this provision, shall forfeit and pay for such failure, neglect or refusal the sum of five dollars for every day the same shall be continued, for each piece of property so marked, to be sued for and recovered in the name of the people of the state, by the attorney-general, in any court of cognizance thereof, to be paid into the state treasury in the same manner as fees hereinafter provided by this article. (Laws 1895, p. 117.)

SEC. 1183. Conditional contracts of sale or lease to be recorded.—The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose. And on payment in full of the purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made

by a separate instrument, to be acknowledged by the vendor, lessor or bailor, or his or its assignee, and recorded as aforesaid. And for such services the secretary of state shall be entitled to a fee of twenty-five dollars, and one dollar in addition for every hundred words in excess of one thousand words, for recording each of said contracts, and each of said declarations, and a fee of ten dollars for noting such declaration on the margin of the record; and all such fees shall be paid by him into the state treasury and added to the "seminary fund," in accordance with the provisions of section ten thousand and five hundred and thirty (10530) of the Revised Statutes of 1899. (Laws 1895, p. 117.)

SEC. 1184. Article not to invalidate existing contracts. This article shall not be held to invalidate, or affect in any way, any contract heretofore made of the kind referred to in the first section hereof, and any such contract heretofore made may, upon compliance with the provisions of this act, be recorded as herein provided. (Laws 1895 p. 117.)

SEC. 1185. Sections 3410, 3412 and 3413, R. S. 1899, not to apply to such contracts.—Sections 3410, 3412 and 3413 of the Revised Statutes of Missouri shall not be held to apply to contracts of the kind referred to in section 1175 of this article. (Laws 1895, p. 117.)

SEC. 1186. Requirements for incorporating street railway companies.—Any number of persons, not less than five, may form a company for the purpose of constructing, maintaining and operating a street railroad for public use in the conveyance of persons, mail and express parcels; and for that purpose may make and sign articles of association in which shall be stated the name of the company, the number of years the same is to continue, the city and county in which the road is to be constructed or maintained and operated, the amount of the capital stock, common and preferred, of the company, and the number of shares of which said capital stock shall consist, and the names and places of residence of the directors, not less than five nor more than thirteen in number, who shall manage its affairs for the first year and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence and the number of shares of stock he agrees to take in said company. When one-half of the capital stock shall have been subscribed and ten per cent. thereon paid in good faith to the directors named in said articles of association, and an affidavit annexed thereto, made by at least three of the directors named therein, that one-half of the stock of the said proposed corporation has been in good faith subscribed, and ten per cent. of the amount so subscribed has been paid, and that it is intended in good faith to construct or maintain and operate the road mentioned in such articles of association, the said articles of association shall be filed and recorded in the office of secretary of state, and thereupon the said association shall by the name mentioned in the said articles of association become a body politic and corporate with the powers, rights and franchises hereinafter specified: *Provided*, the said articles of association shall not be filed and recorded until such association or corporation shall pay into the state treasury fifty dollars for the first fifty thousand dollars or less of the capital stock of the corporation, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. (New section.)

SEC. 1187. Powers of corporation. — Every corporation formed under the provisions of this article shall have power:

First, to construct or maintain and operate its railroad along, across or over the streets of any incorporated city or town or the roads of any county: *Provided*, the consent thereto of the municipal authorities of such city or town or the county court of such county is first obtained: *Provided*, municipal authorities of cities or towns shall not grant the right of way over, along or across any street, except upon the petition of the owners of the land representing more than one-half the frontage of the street or so much thereof as is sought to be used for street car purposes, and when the street or parts thereof that is sought to be used shall be more than one mile in extent, no petition of land owners shall be valid unless the same shall be signed by the owners of the land representing more than one-half the frontage of each mile and of the fraction of the mile, if any, in excess of the whole mile measuring from the initial point named in such petition such street or parts thereof sought to be used for such purposes.

Second, to operate its road by animal, cable, electric or other motive power, as the consent of the use of which said power may be obtained from the public authorities of such city, town or county.

Third, to receive and collect such fares for the transportation of persons, express and mails as may be provided in the said consent of said public authorities of such city, town or county, given as aforesaid.

Fourth, to acquire by grant a right of way not to exceed fifty feet in width over private property, and to construct or maintain and operate its roads thereon.

Fifth, to purchase and acquire depots, power-house sites or terminals.

Sixth, to issue bonds payable in such amount and at such times and places as it deems best, and may dispose of the same for the purposes of its incorporation, and to secure payment of the same, may mortgage its property, real and personal, and also the franchises of the company.

Seventh, to purchase, lease or acquire by other lawful contracts, which shall include the right to purchase the capital stock and bonds of other street railroad companies, and to hold and dispose of the same, and to hold, use and operate any street railroad or roads, with all and singular its or their franchises and properties of every description belonging to any other street railroad corporation or corporations: *Provided*, that such purchase, lease or other contract be authorized or approved by the vote of the holders of two-thirds in amount of the capital stock of the company so purchasing, leasing or otherwise contracting therefor at a meeting called for that purpose upon twenty days' notice published in some newspaper of the city or county where the general office of such street railroad company may be located, or by written notice mailed to the last known address of each registered stockholder twenty days before such meeting; and *provided further*, such roads connect with or intersect each other, so as to allow a single passage one way over each road for a single fare.

Eighth, to sell, lease or dispose of by any other lawful contract, to any other street railroad company, its railroad rights, franchises, including the right to be a corporation, and all and singular its other

properties of every character and description: *Provided*, that such sale, lease or other contract disposing of its railroad, franchises and other properties, shall be first authorized or approved by the vote of two-thirds in amount of the holders of its capital stock at a regular or called meeting of its stockholders convened pursuant to such notice as is required in the next preceding clause.

Ninth, to have and enjoy all such other powers and franchises as are usually had, enjoyed and exercised by street railroad companies in addition to the powers hereinbefore enumerated. (New section.)

SEC. 1188. Street railway companies may accept provisions of this article.—Any street railroad company heretofore organized under any general or special law of this state, may have and enjoy all the benefits, powers and privileges of this act by filing in the office of the secretary of state a resolution of its board of directors accepting the provisions of this article, and paying into the state treasury the same fees as provided in section 1186 of this article. (New section.)

SEC. 1189. Increase of capital stock and bonded indebtedness provided for.—Any company formed under this article or accepting the provisions thereof, may increase its capital stock or bonded indebtedness from time to time by the authority of the vote of a majority of the stockholders of such company at a regular annual election for the directors thereof, or at a special meeting of the stockholders of said company called to consider the same upon sixty days' public notice. (New section.)

SEC. 1190. Preferred stock authorized.—Any railroad company organized under the provisions of this article, or accepting the provisions thereof, may issue preferred stock for such amount and upon such terms and conditions as the board of directors may prescribe, by and with the consent of the shareholders of such company expressed at a regular or special meeting of such stockholders called upon twenty days' published notice or twenty days' written notice to each registered stockholder addressed to him at his last known address. (New section.)

ARTICLE IV.

RAILROAD CLASSIFICATION—CHARGES—COMMISSIONERS.

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| 1191. Railroads classified. | 1208. Salaries and contingent expenses of commissioners. |
| 1192. Passenger charges regulated. | 1209. Construction of article. |
| 1193. Freight classified. | 1210. Commissioners to require railroads operated by competing companies to make reasonable daily connections, when. |
| 1194. Freight charges regulated. | 1211. Commissioners authorized to act, how and when. |
| 1195. Freight charges for melons. | 1212. Commissioners to institute inquiry—notice, etc. |
| 1196. Penalty for illegal charges, etc. | 1213. Commissioners' acts—order of record—notice to company. |
| 1197. Jurisdiction of court, etc. | 1214. Penalty for failure to obey orders. |
| 1198. Railroad commissioners—selection—qualifications. | 1215. Commissioners to require companies to connect tracks, when. |
| 1199. Commissioners to enforce reasonable rates. | 1216. Notice to companies of intention to make order. |
| 1200. Powers of commissioners. | 1217. Expenses of making connection, how divided. |
| 1201. <i>Id.</i> May issue subpoenas, etc., how enforced. | 1218. Penalty for failure to comply with order. |
| 1202. <i>Id.</i> Penalty for disobedience of process, etc. | 1219. Other and inconsistent acts repealed. |
| 1203. Reports shall be printed. | |
| 1204. Commissioners may classify freight, when. | |
| 1205. Powers and duties of commissioners as to inspection of tracks, etc. | |
| 1206. Decisions of commissioners binding on companies—penalty, etc. | |
| 1207. Oath and bond of commissioners. | |

SEC. 1191. Roads classified.—All railroads in the state of Missouri are hereby divided into three classes, to be known as class A, class B and class C. Class A shall include all through or trunk line railroads. Class B shall include all of the branch roads owned, leased or occupied by such through or trunk line railroad companies or corporations. Class C shall include all other railroads or parts of railroads owned, leased or occupied, or which may hereafter be owned, leased or occupied in this state, either wholly or in part. (R. S. 1889, § 2672—g.)

SEC. 1192. Passenger charges regulated.—Any individual, company or corporation owning, operating, managing or leasing any railroad or part of a railroad in this state, in the several classifications as herein prescribed, shall be limited to a compensation per mile for the transportation of any person with ordinary baggage not exceeding one hundred pounds in weight, as follows: In class A, not exceeding three cents per mile, and in classes B and C not exceeding four cents per mile: *Provided*, that no such individual, company or corporation shall charge, demand or receive any greater compensation per mile for the transportation of children of the age of twelve years or under, than one-half of the rate above prescribed; *and provided further*, that the rates for transportation herein prescribed may be reduced, as hereinafter provided. (R. S. 1889, § 2673—h.)

SEC. 1193. Freight classified.—All freights hereafter transported upon any railroad or part of a railroad in this state are hereby divided into four general classes, to be designated as first, second, third and fourth classes, and into seven special classes, to be designated as class D, E, F, G, H, I and J. Class D shall comprise all grain in car-loads. Class E shall comprise flour in lots of fifty barrels or more, and lime in lots of twenty-four barrels or more. Class F shall comprise salt in lots of sixty barrels or more, and cement, water-lime and stucco in lots of twenty-four barrels or more. Class G shall comprise lumber, lath and shingles, in car-loads. Class H shall comprise live stock, in car-loads. Class I shall comprise agricultural implements, furniture and wagons. Class J shall comprise coal, brick, sand, stone, railroad ties and cord-wood, and all heavy fourth-class articles, in car-loads; and in addition to the several articles in the said special classes, shall be added other articles as and in the manner hereinafter prescribed, except in classes D, E, G and H; and all articles not before enumerated or subsequently set into said classes as hereinafter provided, shall be placed in and belong to the four general classes, to be classified by the railroad commissioners hereinafter to be provided. (R. S. 1889, § 2674—i.)

SEC. 1194. Freight charges regulated.—No individual, company or corporation owning, operating, managing or leasing any railroad or part of a railroad, designated in section 1191 as in classes

(g) This and following sections construed. 85 Mo. 90; 83 Mo. 454. Pleadings and practice under this article. 82 Mo. 572. Special contract with plaintiff no defense. 85 Mo. 90. This statute takes place of common law remedies, and suit will be barred by three years' statute of limitations. 33 A. 509; 41 A. 263. Company cannot claim exemption from operation of laws on ground that it purchased franchise, etc., of railroad whose existence antedates that of present constitution and laws. 83 Mo. 454; see, 61 Mo. 24; 65 Mo. 123.

(h) Refusal to carry bicycles as ordinary baggage, when company liable for. 71 A. 385.

(i) Section construed. 111 Mo. 18; 118 Mo. 506; 41 A. 157; 66 A. 393.

A, B or C, shall charge for or receive a greater or higher rate for carrying articles named in the several special classes herein designated, than is hereinafter provided for, namely: Class D, not exceeding six cents per one hundred pounds for the first twenty-five miles, and not exceeding four cents per hundred pounds for the second twenty-five miles, and not exceeding two cents per hundred pounds for each additional twenty-five miles or fractional part thereof, unless the fraction shall be less than thirteen miles, in which case the rate shall be one cent for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one-half cent per hundred pounds shall be received for each twenty-five miles over said first mentioned two hundred miles. Class E, not exceeding twelve cents per barrel for the first twenty-five miles, and not exceeding eight cents per barrel for the second twenty-five miles, and not exceeding four cents per barrel for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two cents per barrel for said fractional part, unless the whole distance be over two hundred miles, when no greater rate than one cent per barrel shall be charged for each additional twenty-five miles over said two hundred miles. Class F, not exceeding fifteen cents per barrel for the first twenty-five miles, and not exceeding six cents per barrel for the second twenty-five miles, and not exceeding three and one-half cents per barrel for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half cents per barrel for said fractional part. Class G, not exceeding eight dollars per car-load for the first twenty-five miles, and not exceeding five dollars per car-load for the second twenty-five miles, and not exceeding two dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one and one-half dollars per car-load for such fractional part. Class H, not exceeding ten dollars per car-load for the first twenty-five miles and not exceeding seven dollars per car-load for the second twenty-five miles, and four dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed two dollars per car-load for such fractional part. Class I, not exceeding eleven dollars per car-load for the first twenty-five miles, and not exceeding six dollars per car-load for the second twenty-five miles, and not exceeding three dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar and fifty cents per car-load for such fractional part. Class J, not exceeding eight dollars per car-load for the first twenty-five miles, and not exceeding six dollars per car-load for the second twenty-five miles, and not exceeding two and one-half dollars per car-load for each additional twenty-five miles or fractional part thereof, unless the fraction be less than thirteen miles, in which case the rate shall not exceed one dollar per car-load for such fractional part. In computing the rates of freight according to the provisions of this article, the distance shall be computed from the point where it is received in this state, notwithstanding it may pass from one road to another. (R. S. 1889, § 2675—j.)

SEC. 1195. Freight charges for melons.—No individual, company or corporation, owning, operating, managing or leasing any railroad or part of a railroad, designated in section 1191 as in class A, B or C, shall charge for or receive a greater or higher rate for carrying watermelons, muskmelons or canteloupes than is hereinafter provided for, namely: Not exceeding eight dollars per car-load of 25,000 pounds for the first twenty-five miles, and not exceeding five dollars per car-load for the second twenty-five miles, and not exceeding one dollar per car-load for each additional twenty-five miles, and all excess in weight to be charged for at the same rates. In computing the rates of freight, according to the provisions of this section, the distance shall be computed from the point where it is received in this state, notwithstanding it may pass from one road to another. (Laws 1891, p. 80.)

SEC. 1196. Penalty for illegal charges, etc.—In no instance shall any such individual, company or corporation, lessee or other person, charge or receive any greater rate of compensation for carrying freight or passengers than hereinbefore provided, and any individual, company or corporation violating, or in any way evading the provisions of this article, shall forfeit all right to recover or receive any compensation whatever for the service rendered wherein such violation is attempted; and every agent of any such corporation, lessee or other individual operating any railroad within this state, who shall refuse to receive for transportation over the road for which he is agent, in the usual way, any of the articles hereinbefore mentioned, on account of the compensation hereinbefore prescribed being too low, or receiving any such articles of freight, shall charge or attempt to charge for the transportation of the same, any greater sum than herein fixed, or shall in any manner violate or attempt to violate or evade the provisions of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall pay a fine of not exceeding two hundred dollars for each and every offense, and the injured party shall have a right of action against said agent, or against the railroad company, or other persons operating the railroad, or both, in which case he shall be entitled to recover three times the amount taken or received from him in excess of the rate prescribed by this article. (R. S. 1889, § 2676—k.)

SEC. 1197. Jurisdiction of courts, etc.—Justices of the peace shall have concurrent jurisdiction with the circuit court in all cases of prosecutions for a violation of this article, with full power and authority to impose fines, and to the same extent as the circuit court, in all cases where the amount claimed does not exceed two hundred dollars: *Provided*, that either party shall have the right to appeal as in all other cases tried before a justice of the peace; and justices of the peace shall have jurisdiction in all civil case under this article, whenever the amount claimed does not exceed two hundred dollars. (R. S. 1889, § 2677.)

SEC. 1198. Railroad commissioners—selection—qualifications.—The governor shall, immediately after the passage of this act, and before the adjournment of the present general assembly, by and with the consent of the senate, appoint three railroad commissioners, who shall hold their office until the first day of January, 1877,

(k) Statute giving right of action for recovery of charges in excess of legal rate, constitutional. 82 Mo. 572.

and until their successors are elected and qualified, and at the general election to be held in 1876, there shall be elected by the qualified voters of the state three railroad commissioners, one of whom shall be elected for two years, and one of whom shall be elected for four years, and one of whom shall be elected for six years; and at each general election, every two years thereafter, there shall be one railroad commissioner elected, who shall hold his office for six years, and until his successor is elected and qualified. But no person owning any bonds, stock or other property in any railroad company, or in the employ of any railroad or transportation company, or in any way or manner personally interested therein, shall be so appointed or elected; *and provided*, that the governor shall fill by appointment all vacancies that may occur in the board of railroad commissioners by death, resignation or removal from office; but no such appointment shall be for a longer time than till the next general election thereafter. (R. S. 1889, § 2678.)

SEC. 1199. Commissioners to enforce reasonable rates.

It is hereby made the duty of the railroad commissioners to exercise constant diligence in informing themselves of the rates and charges of common carriers engaged in the transportation of freight from points in this state to points beyond its limits, and from points in other states to points in this state; and whenever it shall come to the knowledge of the railroad commissioners, by complaint made to them or in any other manner, that the rates charged by any such common carrier on inter-state business are unjust, excessive or unreasonable, or that such rates discriminate against the citizens of this state, the commissioners shall cause the facts thereof to be embodied in a complaint setting forth, in detail, the respect in which the rate complained of is unjust, excessive or unreasonable, and shall file said complaint with the inter-state commerce commission and demand a hearing thereof, and shall thereafter furnish testimony in support thereof, and diligently present the facts upon which such complaint is based. At the time of filing such complaint, the railroad commissioners shall give notice thereof to the attorney-general, who shall prosecute the same to final determination before the said inter-state commerce commission. (Laws 1891, p. 83.)

SEC. 1200. Powers of commissioners, etc. — Upon complaint being made and filed against any railroad company, said commissioners shall have power to administer oaths or affirmations, to send for persons and papers, under such regulations as they may prescribe, and shall at any and all times have access to any and all books and papers in any railroad office kept for and used in said railroad office by any railroad company in this state, and if the charges are sustained, the cost shall be paid by the railroad company, but if not sustained, then the cost shall be paid by the party making the complaint. (R. S. 1889, § 2679.)

SEC. 1201. *Id.* May issue subpoenas, etc. — how enforced. — Said railroad commissioners, in making any examination, as contemplated in this article, shall have power to issue subpoenas for the purpose of obtaining information pursuant to this article for the attendance of witnesses, by such rules as they may prescribe; and in case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the circuit court or any judge thereof in any county, upon the application of the said commissioners, to issue an attachment for such witness and compel such witness to attend before the commis-

sioners, and give his testimony upon such matters as shall be lawfully required by such commissioners; and said court shall have power to punish for contempt, as in other cases of refusal to obey the process and order of such court. (R. S. 1889, § 2680.)

SEC. 1202. *Id.* Penalty for disobedience of process, etc. Any person who shall willfully neglect or refuse to obey the process of subpoena issued by said commissioners, to appear and testify as therein required, shall be deemed guilty of a misdemeanor, and shall be liable to arraignment and trial in any court having competent jurisdiction, and on conviction thereof, shall be punished for such offense by a fine of not less than twenty nor more than five hundred dollars, or by imprisonment not exceeding thirty days, or both, at the discretion of the court before which such conviction shall be had. (R. S. 1889, § 2681.)

SEC. 1203. Reports shall be printed.—The annual reports of the railroad commissioners made to the governor, as is now or as may hereafter be provided by law, shall be printed at the expense of the state in manner provided by law for the printing of other public documents. Three thousand copies are hereby authorized to be printed and bound annually, under the direction of said commissioners, and to be by them properly distributed throughout the state. (R. S. 1889, § 2683.)

SEC. 1204. Commissioners may classify freight, when. Said railroad commissioners shall have power to classify all articles of freight transported on any railroads or parts of railroads owned, leased or occupied in the state, except the articles in the special classes D, E, G and H, placing said articles in either of the general classes herein provided for, or in any of said special classes, except D, E, G and H; and are further empowered and authorized to reduce said rates on any of said railroads or parts of railroads, either in general or special classes, whenever, in their judgment, it can be equitably done. (R. S. 1889, § 2684—1.)

SEC. 1205. Powers and duties of commissioners as to inspection of tracks, etc.—The railroad commissioners shall, as often as they may deem it necessary, carefully examine the condition of the several railroads of this state; and it shall be the duty of said railroad commissioners, whenever they have reasonable grounds to believe—either on complaint or otherwise—that any of the tracks, bridges or other structures of any railroads in this state are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety, to inspect and examine the same; and if, on such examination, in their opinion, or in the opinion of a majority of them, any such track, bridges or other structure or works are unfit for the transportation of passengers with reasonable safety, it shall be their duty to give to the superintendent or other executive officer of the company working or operating said defective tracks, bridge or other structure, notice of the condition thereof, and of the repairs necessary to place the same in a safe condition; and may also order and direct the speed of trains over such dangerous and defective track, bridge or other structure, until the said repairs are made, and the time within which the repairs shall be made by the company; and if any such superintendent or executive officer aforesaid, receiving such notice and order, shall willfully neglect, for the

period of two days after receiving such notice and order, to direct the proper subordinate officers to move the passenger trains over such defective track, bridge or other structure, at the speed prescribed by the commissioners, or if any engineer, conductor or other employe of such company shall disobey such order, every such superintendent, conductor, engineer or other employe shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail of the proper county for a period not exceeding one year, or both, at the discretion of the court; and in case the disregard of the instructions of the commissioners shall cause any accident whereby human life shall be lost, or passengers maimed or wounded, the said superintendent of the said company and the engineer and conductor in charge of such train shall severally be deemed guilty of a felony, and, on conviction thereof, shall be imprisoned in the penitentiary for a period of not less than two nor more than ten years; and the commissioners shall have power to wholly stop the running of passenger trains over such defective track, bridge or other structure; and they are hereby required, in case any company fails to repair such track, bridge or other structure within the time required, to give notice of such fact in some newspaper having a general circulation along the line of said railroad, to the traveling public. And, furthermore, said commissioners may recover from said railroad company the sum of one thousand dollars for each day that expires after the time fixed by the commissioners for the repair of such defective track, bridge or other structure, for such neglect to repair the same, unless good and sufficient cause can be shown for such failure to repair such defective track, bridge or other structure, to be recovered before any court having competent jurisdiction, for the use and benefit of the state of Missouri, after paying the costs of the advertisement herein provided for. (R. S. 1889, § 2685.)

SEC. 1206. Decision of commissioners binding on companies—penalty, etc.—Any individual, company or corporation owning, operating, managing or leasing any railroad or part of any railroad in this state, shall be bound by the decision of the aforesaid commissioners with reference to the rates so fixed by said commissioners, and every violation by any individual, company or corporation charging a greater or higher rate shall be deemed a misdemeanor, and, on conviction thereof, shall forfeit and pay a fine of not less than twenty nor more than two hundred dollars for each and every offense; and the injured party shall have a right of action against said individual, company or corporation before any court of competent jurisdiction in this state; and he shall be entitled to recover three times the amount taken or demanded in excess of the rates prescribed by this article, or by the commissioners acting under the provisions of this article; but nothing herein contained shall be so construed as in any manner to abridge or control, or to in any way authorize the commissioners to abridge or control or regulate the rates for freight or passengers charged by any railroad company in this state for carrying any freight or passengers which come from beyond the limits of this state, and to be carried through or across this state, but the said railroad and transportation companies shall possess the same power and right to charge such rates for carrying such through freight and pas-

sengers as they possessed before the passage of this article. (R. S. 1889, § 2686—m.)

SEC. 1207. Oath and bond of commissioners.—Before entering upon the duties of his office, each of said commissioners shall make, subscribe and file with the secretary of state the following oath:

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Missouri, and that I will faithfully discharge the duties of railroad commissioner according to the best of my ability; that I am not a stockholder in any railroad or freight company, nor in any way, directly or indirectly, in the employment of or engaged in the management of any railroad or transportation company.

Each of said commissioners shall enter into a bond, with security, to be approved by the governor, in the sum of twenty thousand dollars, conditioned upon the faithful performance of his duty. (R. S. 1889, § 2687.)

SEC. 1208. Salaries and contingent expenses of commissioners.—The said commissioners shall each receive for their services three thousand dollars per annum, payable monthly out of the state treasury; they shall be furnished with an office, which shall be at the state capital, and at the expense of the state; and the necessary contingent expenses of said office shall be paid monthly out of the state treasury, from any money appropriated for contingent expenses of railroad commissioners: *Provided*, that such appropriation shall not exceed eight hundred dollars in any one year. The said commissioners shall employ a secretary at a salary of fifteen hundred dollars per annum, to be paid monthly out of the state treasury; they shall also adopt and use an official seal; and a copy of any of their proceedings, or of any documents on file in their office, duly certified, shall be taken as evidence in the courts of this state. (R. S. 1889, § 2688.)

SEC. 1209. Construction of article.—Nothing contained in this article shall be so construed as to release any such railroad corporations enumerated in this article from liability for damages, as provided by the laws now in force. (R. S. 1889, § 2689.)

SEC. 1210. Commissioners to require railroads operated by competing companies to make reasonable daily connections, when.—Whenever two or more railroads run and operated in this state by competing companies shall connect with or intersect each other and where a passenger depot shall be located, fail to run their passenger trains so as to connect with each other, it shall be the duty of the railroad and warehouse commissioners to require such companies to so run and operate their passenger trains as to make reasonable daily connection with each other in the arrival and departure of their trains so as to cause as little delay as practicable for passengers, when, in the judgment of said commissioners, such connection can be made without serious detriment to the business of such companies, or either or any of them, and where such connection will not seriously conflict with other more important or necessary connections on the line of either or any of said roads. (New section.)

SEC. 1211. Commissioners authorized to act, how and when.—In enforcing the provisions of this act the commissioners are fully authorized to determine how such connection shall be made, when the same cannot be agreed upon by the companies interested, and to settle and determine all differences between said companies in relation

thereto, making all their proceedings under this act a matter of record. (New section.)

SEC. 1212. Commissioners to institute inquiry, notice, etc.—Upon written complaint by three or more adult male residents of any county in the state, where a line of railroad is being run and operated, which connects with or intersects another road, that such roads fail to make connection in running and operating their passenger trains, filed with said board of commissioners, said board shall institute inquiry as to the public necessity and feasibility of such connection, and shall give at least ten days' notice to some officer or agent of the companies interested, and to one or more of the complainants, of the day fixed for the hearing of the complaint. (New section.)

SEC. 1213. Commissioners' acts — order of record—notice to company.—Upon such investigation, if the commissioners shall be of the opinion that the companies should operate their roads so as to make connection as provided in this act, they should make an order of record to that effect, and give the companies notice of such order, and naming a day in such order and notice when such connection shall begin. (New section.)

SEC. 1214. Penalty for failure to obey orders.—Any railroad company or companies failing and refusing to make connection of their trains as required by the order of the railroad commissioners and this act, or shall otherwise violate the provisions of this act, shall be deemed guilty of a misdemeanor and shall be punished by a fine not less than one hundred (\$100) dollars, nor more than one thousand (\$1,000) dollars for each and every day they shall fail to make connection of their trains as required by said order and this act, to be recovered by indictment or information preferred in the county where such roads connect with, or intersect each other, and where such connection is required to be made; and a certified copy of the order of the board of railroad and warehouse commissioners at the hands of the secretary shall be received in all courts as evidence of the same. (New section.)

SEC. 1215. Commissioners to require companies to connect tracks, when.—The railroad and warehouse commissioners are hereby authorized and empowered, whenever in their judgment the public interest demands it, to require railroad companies whose rights of way join or whose tracks are within one hundred feet of each other, the conditions being such as to enable a connection to be made between such tracks, on a grade common to each, and the necessary right of way obtained or granted, to connect their tracks so as to receive and interchange cars, one company with and from the other, when requested by shippers desiring to ship freight in car-load lots, from a point on one line to a point on the line of another company. (New section.)

SEC. 1216. Notice to companies of intention to make order.—Before said commissioners shall issue an order requiring a connection to be made as provided in section 1210 of this article, they shall give the railroad companies interested at least ten days' notice of their intention to issue such order, so that if desired by said companies a hearing of the matter may be had by the commissioners. (New section.)

SEC. 1217. Expenses of making connection, how divided.—The cost of connection authorized by this article shall be divided by the

commissioners between the companies whose tracks are connected in such proportion as the aforesaid commissioners may find to be equitable. (New section.)

SEC. 1218. Penalty for failure to comply with order. For failure on the part of any railroad company to comply with an order of the commissioners requiring a track connection to be made as provided in section 1210 of this article, such railroad company shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined twenty-five dollars per day for each and every day after the expiration of the time designated by the said commissioners in their order for the completion of such connection; the said penalty to be recovered in an action in the name of the state of Missouri at the relation of the said commissioners, before any court of competent jurisdiction, in the county where such neglect or failure may occur. (New section.)

SEC. 1219. Other and inconsistent acts repealed.—An act entitled "An act authorizing the railroad and warehouse commissioners to require railroad companies to make connection and interchange cars," approved March 15, 1897, and all other acts or parts of acts inconsistent with this act are hereby repealed. (New section.)

ARTICLE V.

MACADAMIZED, GRADED AND PLANK ROAD COMPANIES.

SECTION

- 1220. Who may form corporation.
- 1221. Consolidation of companies.
- 1222. Articles of association shall contain, what.
- 1223. Shall become incorporated, when.
- 1224. Directors, how chosen.
- 1225. Number of votes to shareholder, how cast.
- 1226. Duty of director—manner of construction.
- 1227. State or county roads may be appropriated, how.
- 1228. Releases of right of way, how taken—power to enter on lands, etc.
- 1229. Material, etc., taken, how.
- 1230. Toll gates—rates of travel.
- 1231. Special roads—rates of toll.
- 1232. Toll to be taken, when road graded entire length.
- 1233. Penalty for avoiding payment of toll.

SECTION

- 1234. Duties of owners, directors and managers.
- 1235. Penalty for violating preceding section.
- 1236. Powers and privileges forfeited, when.
- 1237. Penalty for unreasonably detaining passenger.
- 1238. Construction of fences, etc.
- 1239. Penalty for destroying fences, etc., and evading tolls.
- 1240. May make and publish by-laws.
- 1241. Removal of toll gates, who may petition for.
- 1242. Penalty for injuring property of company.
- 1243. Plank roads, etc., not to be made on roadway of turnpike company.
- 1244. Privileges to be forfeited, when.
- 1245. Duties of companies to keep books—shall be open to inspection, to whom.

SEC. 1220. Who may form corporation.—Any five or more persons may form themselves into a corporation for the purpose of constructing and owning a graded or gravel road, or plank or macadamized road, or a road composed partly of plank, macadam or gravel for covering, so as to form a hard and smooth surface, by complying with the provisions of this article. (R. S. 1889, § 2690—n.)

SEC. 1221. Consolidation of companies.—Any company or association, formed as herein provided, may unite with any other plank or macadamized road company or companies, formed or incorporated under this or any other statute of this state, for the joint construction or use, or both, of any road or roads, or part or parts thereof, in course of construction by them, or either of them; but such agreement, to be valid and binding, must be authorized by a majority vote

of the stock owned in the respective companies represented in the meeting. (R. S. 1889, § 2691.)

SEC. 1222. Articles of association shall contain, what. All companies formed as provided by this article shall sign articles of association, setting forth the name which they assume, the beginning, termination and route of the road they propose to construct, and its general plan; the amount of capital stock of the company; the amount of each share; the names and residences of the subscribers, and the amount of stock taken by each; the term of years to which the existence of the association shall be limited; and the number of directors proposed to be elected, which shall not be less than three nor more than nine, together with location of its principal office, and the names of authorized agents thereat. (R. S. 1889, § 2692.)

SEC. 1223. Shall become incorporated, when.—Whenever the stock subscribed for a plank or macadamized road shall amount to one thousand dollars per mile of the proposed road, or to two hundred dollars per mile of a graded or graveled road, and five per cent. is paid thereon, in good faith and in cash, to the directors named in said articles of association, the persons named as corporators shall, upon complying with the provisions of law governing corporations, file with the secretary of state a copy of such articles of association, duly verified by the affidavit of at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and five per cent. paid in cash thereon as aforesaid; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions relating thereto, except as herein otherwise provided. (R. S. 1889, § 2693—o.)

SEC. 1224. Directors, how chosen.—Any three or more of the stockholders may call a meeting for the purpose of electing directors, who shall be chosen by a majority of the votes of the stockholders according to law, and the directors so chosen shall hold their offices for one year, and until their successors are duly elected and qualified. Notice of the first election for directors shall be given by two weekly publications in some newspaper of general circulation along or near the route of said road; or, if no paper be published in the county, then by putting up printed notices at the court-house door, and at the door of each postoffice near the line of the proposed road, specifying the time and place of holding the election. The directors shall elect one of their number to be president of the company, and they may also appoint such other officers and agents as shall be prescribed by the articles of association or by-laws of the company. (R. S. 1889, § 2694.)

SEC. 1225. Number of votes to shareholder, how cast. Each stockholder shall, in all things in which he may vote, have as many votes as he may have shares in such company, and may cast them at his discretion, in person or by proxy. (R. S. 1889, § 2695.)

SEC. 1226. Duty of directors—manner of construction. The directors may determine the particular manner of construction, so as to secure and maintain a smooth and permanent road, the track of which shall be made of plank or timber, or macadam or of gravel, or partly of each; but all graded roads shall not be less than twenty feet

(o) Stockholders cannot avoid payment of stock, when. 16 Mo. 359; 25 Mo. 641.

wide, of a grade not exceeding two hundred feet to the mile, unless the county court of the county in which such road is proposed to be constructed shall, upon application of the corporation, establish a different grade for such road; the road-bed to be well rounded, with side-drains of not less than twenty inches in depth, and a sufficient number of culverts or under-drains to prevent the passage of streams of water over the road, and shall be entitled to collect tolls at one-half the rates charged upon plank, macadamized or gravel roads. (R. S. 1889, § 2696.)

SEC. 1227. State or county roads may be appropriated, how.—The directors of said association shall proceed to survey and locate said road, and may, with the consent of the county court of the proper county, locate it over and upon any state or county road or highway; and thereupon such state or county road or highway, or such portion thereof as may be occupied and appropriated by said company, shall become the property of said company, for the purpose of making and maintaining said road and the gates and toll-houses thereon; and the county courts of the several counties of this state are hereby authorized to consent to the appropriation and occupation of any such state or county road, over and upon which any such company may locate any such road. (R. S. 1889, § 2697—p.)

SEC. 1228. Releases of right of way, how taken—power to enter on lands, etc.—Any such company or association may take releases and conveyances of the lands necessary for the construction of any such road, of any and all persons over or through whose lands the road may be located; and any such releases and conveyances may be made and executed by any infant, guardian or curator, executor or administrator, and shall be valid and effectual in law, by obtaining the consent of the county court thereto, or the consent of the court having probate jurisdiction. For the purpose of constructing said road, it shall be lawful for such company, by their agents and servants, to enter upon any lands to make surveys, estimates and locations. (R. S. 1889, § 2698.)

SEC. 1229. Material, etc., taken how.—If such company shall require, for the construction or repairs of said road, or any bridge thereof, any stone, timber or other material from land adjoining to or near said road, and cannot contract for the same with the owner thereof, such company may proceed to have the value of such material assessed, and the same proceedings shall be had therefor as is provided by law to be taken by railroad associations in like cases; and all associations organized under this article shall have the right also to condemn, in like manner, and occupy any quantity of land not exceeding one acre at any one place, for the purpose of erecting toll-houses thereon. (R. S. 1889, § 2699—q.)

SEC. 1230. Toll-gates—rates of travel.—Whenever five consecutive miles of such road shall have been completed, or if its whole length shall be less than five miles, then when the whole of such road shall have been completed, the directors of such company may erect toll-gates at such points and at such distances from each other as they may deem proper, and exact toll from persons traveling on such road, not exceeding the following rates: For every sleigh, carriage or vehicle drawn by one animal, one and a half cents per mile, and one cent in addition for every additional animal; for every horse and rider or

(p) Company liable for damages, when. 21 Mo. 580; 138 Mo. 332; 37 A. 49c.

(q) May condemn lands and change location of roads, when. 67 Mo. 438.

led horse, one cent per mile; for every twenty sheep or hogs, two cents per mile; and for every twenty head of neat cattle, mules or asses, five cents per mile; and in that proportion for any less number: *Provided*, that persons living within one mile of any gate shall be permitted to pass the same at half the usual rates. (R. S. 1889, § 2700.)

SEC. 1231. Special roads—rates of toll.—Such companies or associations as have constructed, or may hereafter construct, plank, gravel or macadamized roads upon or across the bottom lands bordering on navigable rivers liable to overflow, and where the cost of construction shall be not less than five thousand dollars per mile, may charge and take toll from persons traveling on such roads whenever two consecutive miles thereof shall be completed, not exceeding the following rates: For every sleigh, carriage or other vehicle, drawn by one animal, three cents per mile, and two cents per mile for each additional animal; for every horse, mule or ass, ridden or led, two and one-half cents per mile; for every head of loose neat cattle, horses, mules or asses, one-half cent per mile; for every head of sheep, goats or hogs, one-third of one cent per mile. (R. S. 1889, § 2701.)

SEC. 1232. Toll to be taken when road graded entire length.—Such companies or associations may charge and take one-half of the rates in the preceding section mentioned, on such roads as now do or hereafter may run across or upon bottom lands, as aforesaid, when the same are graded their entire length, in conformity to the provisions of this article. (R. S. 1889, § 2702.)

SEC. 1233. Penalty for avoiding payment of toll.—If any person or persons using any part of said road shall, with intent to defraud such company, pass through any private gate or bars or along any other ground near said road, to avoid any toll-gate, or shall falsely represent himself or herself to any toll-gatherer as entitled to exemption from paying toll, or shall make an untrue statement as to the distance he or they shall have traveled or intend to travel on the road, or shall practice any fraudulent means, and thereby lessen or avoid the payment of tolls, each and every person concerned in such fraudulent practice shall, for every such offense, forfeit and pay to such company the sum of five dollars, to be recovered by such company in an action of debt, before any justice of the peace of the county where the offender may be found. (R. S. 1889, § 2703.)

SEC. 1234. Duties of owners, directors and managers. It shall be the duties of the owners, directors and managers of any turnpike, plank or macadamized road constructed under and by virtue of the laws of this state, at all times to maintain a smooth and permanent road, so as to form a hard and even surface, and maintain and keep in good repair all necessary bridges, culverts, ditches and dykes, and upon failure to do so, neither they nor their agents shall charge or exact any toll from any person or persons traveling over or on such road. (R. S. 1889, § 2704.)

SEC. 1235. Penalty for violating preceding sections. Any person willfully violating the provisions of the preceding sections shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than twenty nor more than one hundred dollars for each offense. (R. S. 1889, § 2705.)

SEC. 1236. Powers and privileges, forfeited, when.—If any road or any part thereof, after it shall have been completed, shall be suffered to be out of repair, so as to be impassable for the space of two months, unless when the same is being repaired, the company own-

ing such road shall be liable to forfeit its corporate powers and privileges, and such forfeiture may be enforced by information in the nature of a *quo warranto* at the relation of any person desiring to prosecute the same; and if such company shall suffer the road to be out of repair, to the injury, hinderance or delay of travelers, for an unreasonable time, they shall have no right to collect tolls thereon until the same is again repaired. (R. S. 1889, § 2706.)

SEC. 1237. Penalty for unreasonably detaining passenger.—If any toll-gatherer or gate-keeper on said road shall unreasonably detain any person or passenger after the toll has been paid or tendered, or shall demand or receive any greater toll than is by this article allowed, he shall for every such offense forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having jurisdiction, by the party aggrieved. (R. S. 1889, § 2707.)

SEC. 1238. Construction of fences, etc.—All companies or associations contemplated by this article, which are now or may hereafter be organized under or by virtue of any law of this state authorizing the construction of plank, gravel or macadamized roads, are hereby authorized and empowered to erect a fence or fences along the outer margin of the road-bed of such companies or associations, or such portions thereof as said companies or associations may deem proper, to prevent persons from illegally going around the toll-gates of such companies or associations, and using said roads without payment of lawful toll: *Provided*, that no fence shall be erected or maintained by such companies at the crossing or intersection of their road by any other public road, highway, street or alley. (R. S. 1889, § 2708.)

SEC. 1239. Penalty for destroying fences, etc., and evading tolls.—Any person who shall willfully throw down, open, destroy or in any manner break through or injure any fence authorized by this article, or who shall willfully deface or otherwise injure any mile-post or stone, or who shall willfully and without leave break or pass through or go around any toll-gate or bridge of such companies or associations, to avoid paying toll, shall upon conviction pay a fine of not less than five nor more than twenty-five dollars for such offense, to be recovered by indictment or information, and shall also pay such companies or associations double the amount of damage they may have sustained by reason of any of the foregoing unlawful acts, to be recovered by a civil action before a justice of the peace having jurisdiction. (R. S. 1889, § 2709.)

SEC. 1240. May make and publish by-laws.—Such company may make and publish all such by-laws as they may deem proper, not inconsistent with any law of this state, in order to regulate the travel upon such road, and the rules to be observed by persons in meeting or passing with teams and vehicles, and all other matters which may be deemed for the welfare of such company. Any person violating any laws made by such company shall be fined not exceeding twenty dollars, to be collected before a justice of the peace, and shall, moreover, be liable for any damages incurred by such transgression. (R. S. 1889, § 2710.)

SEC. 1241. Removal of toll-gate, who may petition for. Any road overseer, or any number of respectable citizens, not less than fifteen in number, who shall be of the opinion that the location of any toll-gate is injurious to the public interest, may, on ten days' notice to the president or secretary of the company, apply to the county court of the county within which such gate is situated for an order to change

the location of such gate; and the said court shall have full power, after hearing the parties, to change the same at the expense of the company, in case of their refusal or neglect to comply with the requirements of the court. (R. S. 1889, § 2711.)

SEC. 1242. Penalty for injuring property of company.

If any person shall willfully do or cause to be done any act or acts whatever, whereby any building, construction or work of any company formed under this article shall be injured or destroyed, the person or persons so offending shall forfeit and pay to such company ten dollars, and double the amount of damages sustained by means of such offense. (R. S. 1889, § 2712.)

SEC. 1243. Plank road, etc., not to be made on roadway of turnpike company.—No plank road or macadamized road authorized by this article shall be made on the roadway of any turnpike company without the consent of the owners thereof, or of the county court, if the same be a county road; but nothing herein contained shall prevent it from crossing any road in such manner as not to obstruct or impair travel. (R. S. 1889, § 2713.)

SEC. 1244. Privileges to be forfeited, when.—Every such company or association shall forfeit all the privileges herein granted, if, within two years from the time of filing their articles of association with the secretary of state, they shall not have commenced the construction of their road, and expended at least five per cent. of their capital stock; and said road shall be completed within ten years of said filing of such articles; and within six months after the completion of such road, the directors shall report that fact, together with the cost of its construction, to the secretary of state: *Provided, however,* that any such company or association having expended not less than one thousand and five hundred dollars per mile in the construction of any such macadamized, graded, gravel or plank road, shall not forfeit their charter, franchise, or any of the privileges by this article granted to any such company or association, if such company or association shall complete such road within two years after the expiration of the time named in this section for the completion of any such road. (R. S. 1889, § 2714.)

SEC. 1245. Duties of companies to keep books—shall be open to inspection to whom.—It shall be the duty of any company formed under this article to keep at their office a book, subject, in office hours, to the inspection of the county court, the sheriff of the county and each stockholder. Said book shall set forth the name of each stockholder, alphabetically arranged, his place of residence, the number of shares each owns, and how much money has been paid by each into the treasury of the company, and shall show all transfers of the stock, with the date thereof, the amount of its assets and liabilities on the first day of January of each year, together with the names and places of residence of its officers. For every day any company shall fail to comply with this section, they shall forfeit and pay, to the use of the county in which the road is situated, fifty dollars, and be liable also, for all damages resulting to any party from such failure. (R. S. 1889, § 2715.)

ARTICLE VI.

TELEGRAPH AND TELEPHONE COMPANIES.

SECTION

- 1246. Corporation, by whom and how formed.
- 1247. Articles, where filed—when incorporated—powers.
- 1248. Election of directors—appointment of officers.
- 1249. Who shall not be chosen directors.
- 1250. Meeting of board.
- 1251. Privileges in constructing line.
- 1252. May enter upon lands, when.
- 1253. Exclusive privileges not to be contracted for.
- 1254. Power to maintain lines, etc.
- 1255. Duties and obligations of companies.

SECTION

- 1246. Duties in forwarding dispatches over other lines.
- 1257. Duties of employes.
- 1258. Penalty for transmitting false communication.
- 1259. Liability for disclosing contents of dispatch, and for negligence in sending messages.
- 1260. Mode of construction may be directed, by whom.
- 1261. Destruction of property, misdemeanor.
- 1262. May consolidate with other companies.
- 1263. Shall possess what powers.

SEC. 1246. Corporation, by whom and how formed.—any number of persons, not less than five, being subscribers to the stock of any contemplated telephone or magnetic telegraph company, may be formed into a corporation for the purpose of constructing, owning, operating and maintaining lines of telephone or magnetic telegraph, upon complying with the following requirements: Whenever stock to the amount of not less than twenty thousand dollars shall have been subscribed for the purpose of forming a telegraph company, or five hundred dollars for the purpose of forming a telephone company, the subscribers to such stock shall elect from among themselves such number of directors, not less than three nor more than thirteen, as they may determine, and shall severally subscribe articles of association, which shall set forth the name of the corporation, the amount of the capital stock of the company, the number of directors, the amount of each share of stock, the number and names of the subscribers to the stock of the company, and the number of shares of stock taken by each subscriber, the location of the principal office or place of business of the company, and the names of its authorized agents thereat, which shall be verified by the affidavits of at least three of the subscribers thereto, and shall pay into the state treasury fifty dollars for the first fifty thousand dollars or less of its capital stock, and the further sum of five dollars for every additional ten thousand dollars thereof. (R. S. 1889, § 2716—r.)

SEC. 1247. Articles, where filed—when incorporated—powers.—The articles of association shall be filed in the office of secretary of state, who shall record and carefully preserve the same in his office, and thereupon the subscribers and the persons who, from time to time, shall become stockholders in such company, and their successors, shall be a body politic and corporate, by the name stated in such articles of association, and shall have power to construct, own, operate and maintain lines of telephone and magnetic telegraph between such points as they may from time to time determine, and to make such reasonable charges for the use of the same as they may establish; and shall have power to lease or attach to their lines other telephone or telegraph lines by lease or purchase; and meetings of the stockholders or of the directors of such corporation may be held for the

(r) Cities cannot under general welfare clause regulate charters of telephone companies. 96 Mo. 623.

transaction of business as well without as within this state. A copy of the articles of association, certified by the secretary of state or his deputy, under the seal of the state, shall be *prima facie* evidence of the incorporation of such company, and of the facts stated therein. Any such company, through its board of directors, with the consent of the persons holding the larger amount in value of the stock, shall have power to reduce its capital stock to any amount not below the actual cost of construction, and in like manner and with like consent to increase the capital stock from time to time, as in their judgment may be necessary, not exceeding an amount which, when fully paid up, shall be required for the business of the company, which consent shall be obtained in the manner prescribed by law. (R. S. 1889, § 2717—s.)

SEC. 1248. Election of directors—appointment of officers.—There shall be an annual election of directors to serve for the ensuing year, notice of which, appointing a time and place, shall be given by the directors chosen, as provided by law, for the first annual election, and thereafter by their successors in office; which notice shall be published not less than twenty days previous thereto in a newspaper published in the county where the principal office of the company shall be situated. The directors shall hold their offices for one year and until their successors are duly elected and qualified. They shall elect one of their number to be president of the company, and may appoint such other officers and agents as may be prescribed by the articles of association or by-laws of the company. (R. S. 1889, § 2718.)

SEC. 1249. Who shall not be chosen directors.—No person shall be chosen a director who is not a stockholder owning stock absolutely in his own right and qualified to vote at the election at which he is chosen, and all elections for directors shall conform to the requirements of law governing private corporations. (R. S. 1889, § 2719.)

SEC. 1250. Meeting of board.—The board of directors may at any time meet for the transaction of business, upon a call of the president of the company. (R. S. 1889, § 2720.)

SEC. 1251. Privileges in constructing line.—Companies organized under the provisions of this article, for the purpose of constructing and maintaining telephone or magnetic telegraph lines, are authorized to set their poles, piers, abutments, wires and other fixtures along, across or under any of the public roads, streets and waters of this state, in such manner as not to incommode the public in the use of such roads, streets and waters: *Provided*, any telegraph or telephone company desiring to place their wires and other fixtures under ground, in any city, they shall first obtain consent from said city through the municipal authorities thereof. (R. S. 1889, § 2721—t.)

SEC. 1252. May enter upon lands, when.—Such companies are also authorized to enter upon any land, whether owned by private persons in fee or in any less estate, or by any corporation, whether acquired by purchase or by virtue of any provision in the charter of such corporation, for the purpose of making preliminary surveys and examinations with a view to the erection of any telephone or telegraph lines,

(s) For increase or decrease of capital stock, see sections 968, 962, 963 and 964.

(t) Unreasonable and oppressive city ordinance directing changes in location of telephone poles held void. 31 A. 23. Erection and maintenance of telephone poles are proper use of street. 88 Mo. 258; 96 Mo. 623. But grant of right to use street is subject to reasonable regulation. 130 Mo. 10; 134 Mo. 548; but see 145 Mo. 551. Telegraph company not a common carrier. 145 Mo. 551.

and, from time to time, to appropriate so much of said lands as may be necessary to erect such poles, piers, abutments, wires and other necessary fixtures for a telephone or magnetic telegraph, and to make such changes of location of any part of said lines as may, from time to time, be deemed necessary, and shall have a right of access to construct said line, and when erected, from time to time, as may be required, to repair the same; and may proceed to obtain the right of way, and to condemn said lands in the manner provided by law. (R. S. 1889, § 2722.)

SEC. 1253. Exclusive privileges not to be contracted for.—No company shall have power to contract with any owner of land for the right to erect or maintain a telephone or telegraph line over his lands, to the exclusion of the lines of other companies organized under the provisions of this article. (R. S. 1889, § 2723.)

SEC. 1254. Power to maintain lines, etc.—Any company incorporated as herein provided may contract, own, use and maintain any line or lines of telephone or magnetic telegraph, whether wholly within or wholly or partly beyond the limits of this state, and shall have power to lease or attach to the line or lines of such company other telephone or telegraph lines, by lease or purchase, and may join with any other corporation or association in constructing, leasing, owning, using or maintaining their line or lines, upon such terms as may be agreed upon between the directors or managers of the respective corporations, and may own and hold any interest in such line or lines, or become lessees thereof, on such terms as the respective corporations may agree. (R. S. 1889, § 2724.)

SEC. 1255. Duties and obligations of company.—It shall be the duty of every telegraph or telephone company, incorporated or unincorporated, operating any telephone or telegraph line in this state, to provide sufficient facilities at all its offices for the dispatch of the business of the public, to receive dispatches from and for other telephone or telegraph lines, and from or for any individual, and on payment or tender of their usual charges for transmitting dispatches, as established by the rules and regulations of such telephone or telegraph line, to transmit the same promptly and with impartiality and good faith, under a penalty of two hundred dollars for every neglect or refusal so to do, to be recovered, with costs of suit, by civil action, by the person or persons or company sending or desiring to send such dispatch, one-half of the amount recovered to be retained by the plaintiff, and one-half to be paid into the county public school fund of the county in which the suit was instituted; and the burden of proof shall be upon the company to show that the wire was engaged as the reason for the delay in transmitting such dispatch. (R. S. 1889, § 2725—u.)

SEC. 1256. Duties in forwarding dispatches over other lines.—Where the person sending the dispatch desires to have it forwarded over the lines of other telephone or telegraph companies,

(u) Section is penal and subject to rules governing penal statutes; can have no extra-territorial force. 108 Mo. 459. As to company's liability for not sending dispatch on Sunday. 32 A. 191; 39 A. 599; 48 A. 566. Telegraph company is not held to same degree of liability as common carrier, and is only liable for negligence or failure to use due care. 57 A. 259. Penalty not incurred by failure to deliver message to party addressed, but only by failure to transmit it over wire. 108 Mo. 459; 54 A. 391. Stipulations on part of company which have been held reasonable. 63 A. 226; 56 A. 192; 50 A. 591; 17 A. 257. Mental suffering alone, unconnected with other injury will not support action for neglect to transmit and deliver message. 116 Mo. 34. Also 30 A. 103; 37 A. 554; 39 A. 601; 45 A. 433; 49 A. 99; 51 A. 375; 58 A. 257; 59 A. 236.

whose termini are respectively within the limits of the usual delivery of such companies, to the place of final destination, and shall tender to the first company the amount of the usual charges for the dispatch to the place of final delivery, it shall be the duty of the company to receive the same, and, without delaying the dispatch, to pay to the succeeding line the necessary charges for the remaining distance; and it shall be the duty of the succeeding line or lines to accept the same, and forward the dispatch in the same manner as if the person sending the same had applied to the agent or operator of such line or lines in person, and paid to him the usual charges; and for omitting so to do the company or companies owning or operating such line or lines shall severally be liable to the penalty prescribed in section 1255. (R. S. 1889, § 2726—v.)

SEC. 1257. Duties of employes.—In all cases where application is made to any telephone or telegraph company, or the operator, agent, clerk or servant thereof, to send a dispatch, it shall be the duty of such operator, agent, clerk or servant who may receive dispatches at that station, plainly to inform the applicant, and, if required by him, to write upon the dispatch that the line is not in working order, or that the dispatches already on hand for transmission will occupy the time so that the dispatch offered cannot be transmitted within the time required, or promptly, if the facts be so; and for omitting so to do, or for intentionally giving false information to the applicant in relation to the time within which the dispatch offered may be sent, such operator, agent, clerk or servant, and the company by which he is employed, shall incur a like penalty as in section 1255. (R. S. 1889, § 2727—w.)

SEC. 1258. Penalty for transmitting false communications.—If any officer, manager, agent or operator of any telephone or telegraph line operating in this state, or any other person, shall knowingly transmit by such telephone or telegraph line any false communication or intelligence with intent to injure any one, or to speculate in any article of merchandise, commerce or trade, or with intent that another may do so, or shall knowingly send or deliver any dispatch that is forged or not authorized by the person whose name purports to be signed thereto, shall, on conviction thereof in the court having criminal jurisdiction in the proper county, be liable to the same penalty as is provided in section 1255. (R. S. 1889, § 2728.)

SEC. 1259. Liability for disclosing contents of dispatch, and for negligence in sending messages.—Every telephone or telegraph company now organized, or which may hereafter be organized under the laws of this state, shall be liable for special damages occasioned by the failure or negligence of their operators or servants in receiving, copying, transmitting or delivering dispatches; and for the disclosure of any of the contents of any private dispatches to any person other than to him to whom it was addressed, or to his agent, they shall be liable to the sender of the dispatch and to the person to whom it was addressed, in the sum of fifty dollars to each, recoverable by an action before a justice of the peace, and for all special damages in addition thereto. (R. S. 1889, § 2729—x.)

(v) 41 A. 443.

(w) 57 A. 265; 59 A. 241.

(x) Telegraph company cannot by contract exempt itself from liability for negligence of its servants in transmission of messages. 135 Mo. 661. Telegraph messages

SEC. 1265. Summons, when to issue, how served—publication, when.—Upon the filing of the petition, a summons shall be issued, giving such owner at least ten days' notice of the time when said petition will be heard, which summons shall be served by the sheriff of the county, in the same manner as writs of summons are or may be by law required to be served. If the name or residence of the owner be unknown, or if the owners, or any of them, do not reside within the state, notice of the time of hearing the petition, reciting the substance of the petition and the day fixed for the hearing thereof, shall be given by publication for three weeks consecutively, prior to the time of hearing the petition, in a newspaper published in the county in which the proceedings are pending, if one is published in the county, or if no newspaper is published in the county, or the publisher shall refuse to publish the same on tender of his usual charges for advertising, then by posting up said notice for three consecutive weeks at the door of the court-house of the county wherein the lands or any portion of them lie. (R. S. 1889, § 2735—a.)

SEC. 1266. Appointment of commissioners—duties of. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be freeholders, resident of the county in which the real estate or a part thereof is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property, shall forthwith return, under oath, such assessment of damages to the clerk of such court, setting forth the amount of damages; and should more than one owner be included in the petition, then the damages allowed each shall be stated separately, together with a specific description of the property for which such damages are assessed, and the clerk shall file said report and record the same in the order-book of the court; and thereupon such company shall pay to the said clerk the amount thus assessed, for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses aforesaid; and upon failure to pay the assessment aforesaid, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such as-

report must describe land. 85 Mo. 448. Description of land sufficient when it refers to plat filed with report showing location of road. 96 Mo. 611. Railroad in securing land for tracks by condemnation proceedings acquires only an easement therein. 121 Mo. 169. And widow not dowerable in easement. 122 Mo. 375, 396; 112 Mo. 103. To whom compensation should be awarded. 122 Mo. 396; 110 Mo. 147; 99 Mo. 199; 86 Mo. 473. For failure to pay compensation assessed, owner may resort to ejectment or injunction, when. 100 Mo. 282. Railroad may, in diminution of damages offer to construct open crossings to aid owner in use of his land. 121 Mo. 169. Prior contract for location of road no bar to proceeding by corporation to condemn right of way across land on different line. 67 Mo. 438.

(a) Notice of appropriation and condemnation of land, what sufficient. 43 Mo. 35; 100 Mo. 282; 54 A. 529. In case defendant and his attorney are non-residents. 120 Mo. 30. Failure to serve land-owners with copy of petition does not render petition void, when. 110 Mo. 147. Where non-resident appeared by attorney court acquired jurisdiction over him. 117 Mo. 138. When records of court recite that defendant was duly served with process it is competent to overthrow such recital, how. 125 Mo. 574. Minor must be served in same manner as adult. 62 Mo. 585.

assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of said court, and entered on the minutes of the court, and as to so much as is thus abandoned the assessment of damages shall be void. (R. S. 1889, § 2736—b.)

SEC. 1267. Different owners may be joined in one petition.—Any number of owners, residents in the same county or circuit, may be joined in one petition, and the damages to each shall be separately assessed by the same commissioners. (R. S. 1889, § 2737—c.)

SEC. 1268. Clerk to give notice of the filing of the report—report may be reviewed, when.—Upon the filing of such report of said commissioners, the clerk of the court wherein the same is filed shall duly notify the party whose property is affected of the filing thereof; and the report of said commissioners may be reviewed by the court in which the proceedings are had, on written exceptions, filed by either party in the clerk's office, within ten days after the service of the notice aforesaid; and the court shall make such order therein as right and justice may require, and may order a new appraisement, upon good cause shown. Such new appraisement shall, at the request of either party, be made by a jury, under the supervision of the court, as in ordinary cases of inquiry of damages; but notwithstanding such exceptions, such company may proceed to erect said telephone or telegraph line, or construct said road or railroad; and any subsequent proceedings shall only affect the amount of compensation to be allowed. In all cases arising under the provisions of this article, the report of commissioners, when signed by a majority of them, shall be taken and considered as the report of all. (R. S. 1889, § 2738—d.)

(b) Damages include damages done to entire tract, including that done by cuts and fills. 96 Mo. 611; 113 Mo. 458; 145 Mo. 38. Assessment of damages should be based on value of land at time of assessment. 103 Mo. 451; 142 Mo. 670. Value of land is what it is worth for sale. 58 Mo. 491. Benefits to be taken into consideration by commissioners are only the direct and peculiar benefits over and above those to his neighbors whose land is not taken. 142 Mo. 670. Benefits may equal damages. 85 Mo. 637. Assessment of property owner with benefits without notice of meeting of commissioners for that purpose is void. 125 Mo. 574. Damages from accumulation of surface water presumed to have been taken in to account. 57 Mo. 433. Inconveniences common to other lands in same neighborhood not to be considered. 18 A. 632; 50 A. 480. If company abandons proceedings, it is liable for all damages caused by them. 72 Mo. 561; 138 Mo. 591. Statute in regard to taking possession upon payment of award constitutional. 113 Mo. 132. Land-owner is entitled to take commissioners' award when deposited with clerk. 119 Mo. 367; 113 Mo. 458. With interest, when. 142 Mo. 670. Order appointing commissioners is interlocutory, from which no appeal or writ of error will lie. 104 Mo. 125.

(c) Residents and non-residents may be joined as defendants. 117 Mo. 138; but see 85 Mo. 448; 45 A. 1.

(d) Report of commissioners not conclusive, and on exceptions filed court may hear testimony and set verdict aside, if wrong, and appoint new commissioners. 49 Mo. 555; see 45 Mo. 466. Court must receive or reject report; cannot alter it. 58 Mo. 491. Form or manner in which request is made for jury immaterial, provided it is made in due time. 113 Mo. 390; 41 A. 499; see 137 Mo. 218. Unless clerk notify land-owner of filing of report a judgment rendered upon same not valid. 38 A. 598. How much notice may be served. 54 A. 529. In case of non-resident owners, notice may be posted in office of county clerk. 137 Mo. 218. Not necessary that notice should set out facts

SEC. 1269. Costs, by whom paid.—The cost of the proceeding to appropriate the right of way shall be paid by the company seeking the appropriation, up to and including the filing and copying of the report of the commissioners; and the court, as to any costs made by subsequent litigation, may make such order as in its discretion may be deemed just. The court shall allow the commissioners a reasonable compensation for their services, which shall be taxed as costs in the proceedings. (R. S. 1889, § 2739—e.)

SEC. 1270. Shall not enter or appropriate dwelling house, etc.—No telephone or telegraph company shall, by virtue of this article, be authorized to enter or appropriate any dwelling, barn, store, warehouse or similar building, erected for any agricultural, commercial or manufacturing purposes, or to erect poles so near thereto as materially to inconvenience the owner in their use or to occasion injury thereto. (R. S. 1889, § 2740.)

SEC. 1271. Who may have damages ascertained—proceedings.—In case property is to be, will be, or has been by any corporation damaged for public use, any person interested may have such damages ascertained. The proceedings for ascertaining and paying such damages shall be the same as are and may be provided by law for assessing damages which owners of land may sustain in consequence of its appropriation for railroad purposes. (New section.)

SEC. 1272. Proceedings when property held by corporation.—In case the lands sought to be appropriated are held by any corporation, the right to appropriate the same by a railroad, telephone or telegraph company shall be limited to such use as shall not materially interfere with the uses to which, by law, the corporation holding the same is authorized to put said lines. Where no agreement can be made between the parties, the mode of assessing the damages provided heretofore, as to private persons, shall be adopted; and if the lands to be appropriated lie in more than one county, an application may be made in any one county in which any of the lands lie, and the damages shall be assessed as to all the lands of the defendant corporation along the whole line, in one proceeding. (R. S. 1889, § 2741—f.)

SEC. 1273. Lands for depot purposes, how condemned, etc.—In case lands sought to be appropriated by any railroad company in this state for depot purposes belong to private persons, and such company and the owner cannot agree on the compensation to be paid, or in case the owner is incapable of contracting, be unknown or a non-resident of the state, such company may have such lands condemned in the manner that is provided in this article for assessing damages which the owners of lands may severally sustain in consequence of the erection, establishment and maintenance of railroads over such lands: *Provided*, that in no case shall more than ten acres of land in the country or more than six blocks in a town, village or city, be condemned under this article, at any one place, or for any one depot; *and provided further*, that any other railroad company shall have the right to use said depot grounds for depot purposes, with the neces-

contained in report. *Id.* Also 100 Mo. 262; 103 Mo. 451; 106 Mo. 575; 108 Mo. 321; 109 Mo. 53; 110 Mo. 147; 113 Mo. 280; 117 Mo. 549; 118 Mo. 617; 119 Mo. 357; 120 Mo. 30; 125 Mo. 583; 129 Mo. 572; 31 A. 351; 32 A. 184; 33 A. 583; 50 A. 48, 552.

(e) See 117 Mo. 549.

(f) Fact that railroad might obtain feasible route over land of other proprietors does not exempt defendant's land from such condemnation. 125 Mo. 82.

sary buildings, turn-outs, sidings, switches and other conveniences in furtherance of said purpose; and if the said two companies cannot agree-upon the amount of compensation to be made therefor, or the points or manner of such use, the same shall be ascertained and determined by commissioners, as provided by law for the condemnation of land for railroad purposes. (R. S. 1889, § 2742.)

ARTICLE VIII.

BANKS OF DEPOSIT AND DISCOUNT.

SECTION

- 1274. Who may be incorporated.
- 1275. Articles of agreement shall state, what.
- 1276. Rights and powers.
- 1277. Examination and certificate as to payment of capital.
- 1278. Cash capital in cities having 150,000 inhabitants.
- 1279. Stock to be divided into shares—vendor and vendee liable, when.
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- 1281. Business shall be managed by a board of directors—who disqualified to act.
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SECTION

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- 1303. Receiver of bank or trust company, duties of.
- 1304. Secretary of state required to visit banks and trust companies—other examinations—expense of—schedule—examination fund—result of examinations certified to general assembly.
- 1305. Duty of secretary of state when capital is impaired—duty and compensation of agent.
- 1306. General assignment, bank or trust company cannot make—duty of secretary of state—insolvent bank or trust company cannot do what.
- 1307. Proceedings against corporations refusing to be examined.
- 1308. Oath and bond of examiner—who shall not be appointed—penalty for false report.
- 1309. Compensation of examiners.
- 1310. Violation of oath a felony.
- 1311. Examiner prohibited from accepting free transportation.

SEC. 1274. Who may be incorporated.—Any five or more persons in any county of this state, who shall have associated themselves by articles of agreement, in writing, as provided by law, for the purpose of establishing a bank of deposit or discount, or of both deposit and discount, may be incorporated under any name or title designating such business. (R. S. 1889, § 2743.)

SEC. 1275. Articles of agreement shall state, what.—The articles of agreement mentioned in this article shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any corporation heretofore incorporated in this state for similar purposes, or an imitation of such name; second, the name of the city or town and county in which the corporation is to be located; third, the amount of the capital stock of the corporation, the number of shares into which it is divided and the par value thereof, that the same has been *bona fide* subscribed, and one-half thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or mana-

gers; fourth, the names and places of residence of the several shareholders and the number of shares subscribed by each; fifth, the number of directors or managers, and the names of those agreed upon for the first year; sixth, the number of years the corporation is to continue, which in no case shall exceed fifty years. The articles of agreement shall be signed by and acknowledged by the parties thereto, and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state. (R. S. 1889, § 2744, amended.)

SEC. 1276. Rights and powers.—Every such corporation shall be authorized and empowered to conduct the business of receiving money on deposit and allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral and personal securities, at a rate of interest not exceeding that allowed by law, and also of buying, selling and discounting negotiable and non-negotiable paper of all kinds as well as all kinds of commercial paper; and for all loans and discounts made, such corporation may receive and retain in advance the interest: *Provided, however,* that no such corporation shall maintain a branch bank, receive deposits or pay checks, except over the counter of, and in its own banking house. (R. S. 1889, § 2745, amended—g.)

***SEC. 1277. Examination and certificate as to payment of capital.**—When any banking corporation, individual banker or trust company shall have filed with the secretary of state the requisite certificate prior to commencing business under the laws of this state, and shall have provided the cash required by law, the secretary of state shall, before such corporation, individual banker or trust company shall be authorized to commence business, examine or cause an examination to be made in order to ascertain whether the requisite capital of such bank, banker or trust company has been paid in in cash. The secretary of state shall not permit such bank, individual banker or trust company to complete the filing of papers or to begin business unless it appears to his satisfaction from such examination or other evidence satisfactory to him that the requisite capital has been in good faith subscribed and paid in in actual cash and is ready for use in the transaction of the business of the proposed institution. In case the secretary of state shall find that all the provisions of the law have been complied with by the institutions herein named which desire to be authorized to do business, he shall grant them a certificate to that effect. (New section.)

SEC. 1278. Cash capital in cities having one hundred and fifty thousand inhabitants.—The cash capital of such corporation shall in no case be less than ten thousand dollars, nor more

(g) Savings bank has power to purchase and hold city warrants. 74 Mo. 104. Defense of *ultra vires* not open to bank when contract has been executed by other contracting party, and is not expressly prohibited by law. 74 A. 365. If it were *ultra vires* for bank to negotiate water bonds such transaction can only be taken advantage of by State. 52 A. 244. Powers of trust company defined. 144 Mo. 562. As to oral order for application of bank deposit. 145 Mo. 143.

*NOTE—According to my construction of this section, at least fifty per cent. of each share of the capital stock must be paid, and be in the custody of the board in actual cash, ready for use in the transaction of business, over and above the amount invested in banking house furniture and fixtures.

than five millions: *Provided*, that when such corporation is situated in a city having a population of one hundred and fifty thousand inhabitants or more, the cash capital of such corporation shall not be less than one hundred thousand dollars. (R. S. 1889, § 2746.)

***SEC. 1279. Stock to be divided into shares—vendor and vendee liable, when.**—The capital stock of such corporation shall be divided into shares of not less than one hundred dollars each. If any shareholder sell or transfer his shares, or any number thereof, in such corporation before they are fully paid, the vendor as well as the vendee shall be liable, the former for one year after notice to the corporation of such sale or transfer, as indorser, for whatever is still due on such shares. (R. S. 1889, § 2747.)

SEC. 1280. Requirements as to money reserve.—Every banking corporation, or individual banker, shall, at all times, have an amount of cash on hand and cash due from other banks, equal to at least fifteen per centum of the aggregate amount of its demand deposits. Whenever the reserve of a bank as hereinbefore required shall fall below fifteen per centum of its demand deposits, then such bank shall not make any new loans or discounts until it shall, by collections, restore its lawful reserve. (New section.)

SEC. 1281. Business shall be managed by a board of directors—who disqualified to act.—The affairs and business of the corporation shall be managed by a board of directors or managers, consisting of not less than three nor more than twenty-one shareholders, who shall be elected annually: *Provided*, that no person shall be a director unless he be a resident of this state and a *bona fide* owner of at least two shares of the capital stock thereof, nor an employe of one bank while a director in another, nor shall any person be a director in any bank against whom such bank shall hold a judgment. Every person who shall be elected director of a bank or trust company shall, within thirty days after said election, qualify himself as such director by filing with the officers of such bank or trust company a written acceptance of the position, a copy of which acceptance shall be spread upon the record of the acts of the directors. Failure to comply with this provision within the time specified shall work a forfeiture of the position, and when any vacancy occurs by such failure the board of directors shall, at the next regular meeting thereafter, enter the fact of such vacancy upon their records and immediately proceed to elect some competent person to fill the vacancy for the unexpired term. In the event of vacancy happening from any cause in the board previous to the annual election the remaining members thereof may fill such vacancy. The board of directors of each and every bank organized under this article shall meet at least once per month and pass upon the business of the bank back to the previous meeting of the board, and shall keep a written record of its approval or disapproval of each

***NOTE**—No corporation should accept as security for any loan or discount shares of its capital stock or a lien of any kind upon any part of its capital, but the same security, both in kind and amount, should be required of shareholders as of persons who are not shareholders, unless it should become necessary to prevent loss upon a debt previously contracted in good faith and on security which at the time was deemed adequate. No corporation organized under this article has a right to become the purchaser of any part of its stock either for the purpose of holding or retiring it, except under such circumstances as above mentioned, and then it should be disposed of as quickly as possible, for the reason that such ownership reduces the capital by the number of shares that the corporation owns.

and every loan, and at each monthly meeting the records shall show the aggregate of the then existing indebtedness and liability of each of the directors and officers to the bank, and no bills payable shall be made and no bills shall be rediscounted by the bank except with the consent of the board of directors. No director or officer of a bank in this state shall be permitted to borrow any of the money of the bank in which he is a director or officer in excess of ten per centum of the capital and surplus without the consent of a majority of the directors of the bank, other than the borrower, first having been obtained in a regular meeting of the board, said consent to be made a matter of record before the loan is made. (R. S. 1889, § 2748, amended—h.)

SEC. 1282. Certificate of incorporation valid only, when. No certificate of incorporation under this article shall be valid unless, at the time the articles of agreement were acknowledged, the capital stock therein mentioned shall have been *bona fide* subscribed and one-half thereof paid in lawful money. (R. S. 1889, § 2749.)

SEC. 1283. Capital stock to be paid up, when—how collected.—The remaining half of the capital stock provided for in the articles of agreement shall be paid up in cash within one year next after the date of the certificate of incorporation, at such times and in such amounts as the board of directors may require. In case any shareholder shall refuse payment, the debt may be collected by suit at law. *Provided*, that the board of directors may, at their discretion, forfeit as many of the shares of such delinquent shareholder as shall be the equivalent of the sum due and unpaid on such shares, and dispose of such forfeited shares to anyone willing to purchase them: *Provided furthermore*, that no installment on shares shall be considered due and payable until notice to that effect shall have been given by publication for two weeks in some newspaper published in the county where such corporation is located, or in writing personally served on the party required to pay. (R. S. 1889, § 2750—i.)

SEC. 1284. Board of directors shall furnish statement, when and to whom.—The board of directors of such corporation, whenever required thereto by the secretary of state, shall furnish a statement to be filed in his office, certified under oath, before a notary public, by their president and cashier, and attested by three of such

(h) Authority of directors as to overdrafts. 2 A. 545. Notice to directors. 2 A. 367. Duty of directors. The board of directors are bound to know all that is done by the bank, beyond the merest matter of daily routine; and they are bound to know the system and rules arranged for its doing. And what they ought to know as to the general course of the bank's business, they will be presumed to have known, in a contest between the bank and third persons dealing in good faith with it. 148 Mo. 368. Gross negligence; committing management to cashier. It is gross negligence on the part of the directors to leave the entire management of the business of a bank to the cashier. 148 Mo. 380. Inalienable duty. The statute of Missouri (R. S., 1889, sec. 2748) imposes on the board of directors the management of the affairs and business of a bank, and these functions are inalienable, and cannot be conferred upon any officer or officers. 148 Mo. 380. Meetings of directors. Where the by-laws authorize a special meeting of the directors only on the call of the president or a majority of the members of the board, such meeting if otherwise called is void. 119 Mo. 9. A special meeting of the directors is void, if the notice thereof required by the by-laws is not given. 119 Mo. 9. Quorum. In the absence of any contrary provision in the charter or by-laws, a majority of the directors will constitute a quorum, and a majority of that quorum can transact the business of the board. 39 A. 453.

(i) Power of directors in determining how stock shall be paid for. 51 A. 198.

directors, of the actual condition of such corporation at the close of business on the day designated, and which day shall be prior to such call. (R. S. 1889, § 2751.)

SEC. 1285. Statement—form of.—The statement required by section 1284 shall be in the following form, to wit:

Official statement of the ——— (here insert the name of the bank), at ———, state of Missouri, at the close of business on the ——— day of ———, 19—.

RESOURCES.

Loans and discounts undoubtedly good on personal or collateral security....	\$.....
Loans and discounts undoubtedly good on real estate security,.....	\$.....
Overdrafts by solvent customers.....	\$.....
United States bonds on hand.....	\$.....
Other bonds and stocks at their present cash market price.....	\$.....
Real estate (banking house) at present cash market value.....	\$.....
Real estate other than banking house at its present cash market value.....	\$.....
Furniture and fixtures.....	\$.....
Due from other banks, good on sight draft.....	\$.....
Checks and other cash items.....	\$.....
National bank notes, legal tender United States notes and gold and silver certificates	\$.....
Gold coin	\$.....
Silver coin, nickles and pennies.....	\$.....
All other resources	\$.....
Total	\$.....

LIABILITIES

Capital stock paid in	\$.....
Surplus fund	\$.....
Undivided profits, less current expenses and taxes paid.....	\$.....
Deposits subject to draft at sight by banks and bankers.....	\$.....
Deposits subject to draft at sight by individuals and others.....	\$.....
Demand certificates of deposits outstanding.....	\$.....
Time certificates of deposits outstanding.....	\$.....
Bills payable and bills rediscounted.....	\$.....
Dividends unpaid	\$.....
Liabilities other than those above stated.....	\$.....
Total	\$.....

State of Missouri, }
County of ——— } ss.

We, ———, as president, and ———, as cashier of said bank, each of us, do solemnly swear that the above statement is true to the best of our knowledge and belief.

_____, president.
_____, cashier.

Subscribed and sworn to before me this ——— day of ———, A. D. nineteen hundred and ———.

Witness my hand and notarial seal the date last aforesaid.

(Commissioned and qualified for a term expiring ———.)

Correct. Attest:

directors.

(R. S. 1889, § 2752, amended.)

SEC. 1286. Statement, publication of.—Publication of this statement shall be made by such corporation in one or more newspapers published in the town, city or county where it is located, if there is one so published: *Provided*, if said corporation is located in

a town or city having a population exceeding ten thousand inhabitants, then such publication must be in a daily newspaper, if such is published in such city; but if such corporation is located in a town or city having a population of ten thousand inhabitants or less, then said publication may be in either a daily or weekly newspaper published in said town or city as aforesaid; and in all cases, a copy of the said statement shall be posted in the banking house, accessible to all. (R. S. 1889, § 2753, amended, Laws 1895, p. 120.)

SEC. 1287. Secretary of state to call for statement, when. It shall be the duty of the secretary of state, not less than twice during any one year, to call upon each corporation doing business under the provisions of this article, or under the general or a special law of this state, and heretofore organized, for a statement as herein provided; and he may call upon any one or more of such corporations to make such statements at any time, though it be more than a second statement within the year; and the secretary shall give no notice to any person whomsoever of the day on which he will call for such statement. For a violation of this prohibition, or of any other duty herein imposed upon him, he shall be deemed to have committed a misdemeanor in office, and upon conviction of the same, upon indictment or information of any parties in the name of the state, before a competent tribunal, he shall be punished by removal from office, and by a fine of not less than five hundred dollars for each violation of this law. Should any president or cashier of any such corporation, or any director thereof, refuse to make the statement so required of him or them, or willfully and corruptly make a false statement, he or they, and each of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon information, punished by a fine for each offense not exceeding five hundred dollars and not less than one hundred dollars, or by imprisonment not less than one nor more than twelve months in the city or county jail, or by both such fine and imprisonment. (R. S. 1889, § 2754.)

SEC 1288. Dividend may be declared, when.—The board of directors may declare a semi-annual dividend, if such dividend has been earned, provided the corporation be fully solvent without such earnings proposed to be divided. But they shall not declare a dividend at any time when the capital of such corporation shall have become impaired to such an extent that is not worth in good resources the full amount paid in after the payment of all liabilities, and any officer or director of such corporation who shall assent to declaring and paying a dividend whilst the capital stock is so impaired, shall be personally liable to the creditors of the corporation to the amount of his proportion of the proposed dividend, if any loss occur by reason of the payment of such dividend. When the capital stock shall have become impaired to the extent of twenty-five per cent. thereof by reason of bad loans or otherwise, then such corporation shall cease to do business unless such capital stock shall have been made good by assessment within sixty days, or reduced equal to the impairment, in the manner provided in the next section. (R. S. 1889, § 2755.)

SEC. 1289. May reduce capital stock, when.—Every corporation now doing a banking business in this state under any law thereof, general or special, may at any time reduce its capital stock to any sum not less than ten thousand dollars, in accordance with the provisions of this article: *Provided*, that no reduction of such stock

shall be made except upon the written consent of the owners of not less than two-thirds of the stock of such corporation. Notice of the intention to so reduce the capital stock shall be published for thirty days in some daily newspaper in the city or county where such bank is located, or in a weekly paper for four insertions before the time when such reduction shall be effected, and the last insertion of such notice shall be at least ten days before the date of reduction: *Provided*, that a statement of such reduction of capital stock, acknowledged by the officers of the corporation, shall be recorded and filed in the same manner as provided in section 1275 for the original articles of agreement. (R. S. 1889, § 2756.)

SEC. 1290. May increase capital stock, when.—Any corporation now doing a banking business in this state under any law thereof, general or special, may at any time increase its capital stock to any amount not exceeding five million dollars, in accordance with the provisions of this article, with the consent of the persons holding a majority of the stock of such corporation, which consent shall be obtained at a meeting of the shareholders, called for that purpose. Upon the presentation of a petition signed by a majority of the owner or owners of a majority of the stock, asking for such increase, the board of directors shall call a meeting for the purpose of voting on such proposition, sixty days' notice of which said meeting shall be published in some daily or weekly newspaper printed and published in the city or town, in which said corporation is located, the last insertion to be not more than five days before the day fixed for such meeting, giving the time, place and the amount of the proposed increase. If upon a canvass of the vote at such meeting it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record. When the full amount of said proposed increase has been *bona fide* subscribed and paid in in cash to the board of directors of said corporation, then a statement of the proceedings, showing a compliance with the provisions of this article, the increase of capital actually subscribed and paid up, shall be made out, signed and verified by the affidavit of the president and counter-signed by the secretary, and such statement shall be acknowledged by the president and recorded in the office of the recorder of deeds of the county or city in which said corporation is located; and a certified copy of such recorded instrument shall be filed in the office of the secretary of state. Upon the filing of such certified copy the secretary of state shall issue a certificate that such corporation has complied with the law made and provided for the increase of capital stock, and the amount to which such capital stock has been increased. Thereupon the capital stock of such corporation shall be increased to the amount specified in such certificate. Such certificate or certified copies thereof shall be taken in all the courts of the state as evidence of such increase. (New section.)

SEC. 1291. Money not to be employed in trade or commerce.—No corporation now existing nor any hereafter organized under any law of this state, whether general or special, as a bank or to carry on a banking business, shall employ its moneys, directly or indirectly, in trade or commerce, by buying and selling ordinary goods, chattels, wares and merchandise, or by owning or operating industrial plants: *Provided*, that it may sell all kinds of property which may

come into its possession as collateral security for loans, or in the ordinary collection of debts. (R. S. 1889, § 2757, amended.)

SEC. 1292. Money not to be loaned to exceed what amount, etc.—No incorporated or private bank in this state shall loan its money to any individual, corporation or company, directly or indirectly, or permit any individual, corporation or company to become at any time indebted or liable to it in a sum exceeding twenty-five per cent. of its capital stock actually paid in, or permit a line of loans or credits to any greater amount to any individual or corporation; a permanent surplus, the setting apart of which shall have been certified to the secretary of state, and which cannot be diverted without due notice to said officer, may be taken and considered as a part of the capital stock for the purposes of this section: *Provided*, said surplus is equal to or in excess of fifty per cent. of the capital stock of said bank: *Provided*, that the provisions in this section shall not be so construed as in anywise to interfere with the rules and regulations of any clearing association in this state in reference to the daily balances between banks: *Provided*, that this section shall not apply to balances due from correspondents subject to draft; *and provided further*, that the discount of the following classes of paper shall not be considered as money borrowed within the meaning of this section, viz.: (1) The discount of bills of exchange drawn in good faith against actually existing values. (2) The discount of paper based upon the collateral security of warehouse receipts covering agricultural and manufactured products in store in elevators and warehouses under the following conditions: First, that the actual market value of the property held in store and covered by such receipts shall at all times exceed by at least twenty per cent. the amount loaned upon the same. Second, that the full amount of the loans shall at all times be covered by policies of fire insurance issued by companies admitted to do business in this state to the extent of their ability to cover such loans, and then by companies having sufficient paid-up capital to be so admitted, and all such policies shall be made payable in case of loss to the bank or holder of the warehouse receipts. (R. S. 1889, § 2758, amended, Laws 1897, p. 89, amended—j.)

SEC. 1293. Duty of directors, when dividend declared. The board of directors of any banking institution in this state, when it shall declare a dividend, shall first set apart to the surplus fund ten per cent. of the net profits of the bank for the period covered by the dividend, until the same shall amount to twenty per cent. of its

(j) Directors liable to bank or its receiver for loss that may accrue from loan to one person of more than one-fourth of bank's capital stock. 107 Mo. 577, 594. As to validity of loan in excess of twenty-five per cent. of capital stock. 120 Mo. 127. Lending more than twenty-five per cent. of capital: liability for losses: who may sue. If by the exercise of ordinary care, that is, such care and diligence as a prudent man exercises in the conduct of his own affairs in view of all surrounding circumstances, the board of directors may know, then it becomes their duty to know, that more than twenty-five per cent. of the bank's capital has been loaned to one individual company, and also that the borrowers were insolvent. Nor is the fact that the directors received no benefit from such loans, and that their services were gratuitous, any excuse for such neglect. And for such neglect of duty, they are liable for losses sustained by the bank, by reason of such loans, in an action at law by the corporation while it is a going concern, or by the assignee after assignment, or in an action in equity by the stockholders in the event of the refusal of the assignee to bring suit. 148 Mo. 380.

capital stock, and said surplus shall not be diminished except for the payment of any losses which may occur: *Provided*, if there are undivided profits, these shall first be used in payment of such losses. (New section.)

SEC. 1294. Cashier, how appointed — to give bond— limitation of authority.—The directors may appoint and remove any cashier or other employe at pleasure. The cashier or any other employe shall have no power to indorse, sell, pledge or hypothecate any notes, bonds or other obligations received by said corporation for money loaned, until such power and authority shall have been given such cashier or employe by the board of directors, in a regular meeting of the board, a written record of which proceeding shall first have been made. The cashier, assistant cashier, or any other officer upon whom the powers of a cashier may be imposed by the board of directors, before entering on the duties of their office, shall give good and sufficient bonds, which shall be approved by the board of directors, in writing, on the records of the board, upon which bonds no member of the board of directors shall become a surety, in such sum and with such number of sureties as the board may direct, conditioned that they will well and faithfully perform all the duties of their office, and that they (the sureties) will hold the bank harmless for any loss occasioned by any act of such officer, until all his accounts with the bank shall have been fully settled and satisfied, such bond to be deposited in some safe place inaccessible to the maker thereof or the sureties thereupon; and all acts of indorsing, selling, pledging and hypothecating done by said cashier or other officer or employe of said bank, without the authority from the board of directors, shall be null and void. (R. S. 1889, § 2759, amended, Laws 1895, p. 120; amended, Laws 1897, p. 89—k.)

SEC. 1295. Penalties for receiving deposits, etc., when. No president, director, manager, cashier or other officer or agent of any bank or banking institution organized and doing business under the provisions of this article, or of any law of this state, shall receive or assent to the reception of deposits, or create or assent to the creation of any debts by such bank or banking institution, after he shall have knowledge of the fact that it is insolvent or in failing circumstances. Every person violating the provisions of this section shall be individually responsible for such deposits so received and all such debts so contracted: *Provided*, any director who may have paid more than his share of the liabilities mentioned in this section may have the proper remedy at law against such other persons as shall not have paid their full share of such liabilities; and *provided further*, that in case of the insolvency of one or more of such officers, agents or managers, the same shall be paid, for the time being, by those who are sol-

(k) Authority of cashier. 62 A. 576; 64 A. 321; 77 A. 186. Cashier's bond, liability of sureties on. 88 Mo. 160; 13 A. 313; Bookkeeper, defalcation of: liability of sureties. 86 Mo. 260. Assignment of note by president of bank without authority of directors may be ratified. Section construed. 73 A. 271. Deed signed by vice-president *prima facie* valid. 145 Mo. 418. Official salaries must be fixed by by-law or resolution and made a matter of record. 36 A. 333. Unless the bond itself limits the liability of the sureties for a fixed period, and the cashier continues in office, without reappointment or election, the sureties will be liable so long as he holds his position; but if there is a reappointment or re-election and subsequent to this the defalcation occurs, the sureties will be released. 72 Mo. 597.

vent, in equal proportions. (R. S. 1889, § 2760, amended, Laws 1895, p. 119, amended—1.)

SEC. 1296. Joint and several liability under last section—evidence of knowledge.—In all suits brought for the recovery of the amount of any deposits received or debts so created, all officers, agents or managers of any such banking institutions charged with having so assented to the reception of such deposit, or the creation of such debt, may be joined as defendants or proceeded against severally, and the fact that such banking institution was so insolvent or in failing circumstances at the time of the reception of the deposit charged to have been so received, or the creation of the debt charged to have been so created, shall be *prima facie* evidence of such knowledge and assent to such deposit or creation of such debt on the part of such officer, agent or manager so charged therewith. (R. S. 1889, § 2761, amended, Laws 1895, p. 119, amended.)

SEC. 1297. This article shall extend to whom.—This article shall extend to and may be enforced by and against the executors and administrators of such deceased officers, agents and managers. (R. S. 1889, § 2762.)

SEC. 1298. Private banking defined.—Private bankers are declared to be those who carry on the business of banking by receiving money on deposit, with or without interest, by buying and selling bills of exchange, promissory notes, gold or silver coin, bullion, uncurrent money, bonds or stock or other securities, and of loaning money, without being incorporated. (R. S. 1889, § 2763.)

SEC. 1299. *Id.* Requirements for engaging in.—No person or company of persons shall engage in the business of banking as private bankers, without a paid-up capital of not less than five thousand dollars, nor until he or they shall have made a statement, subscribed and sworn to as correct and true before a notary public by each person connected with such business, as owner or partner, setting forth: First, the names of all persons interested in the business and the amount of capital invested; and second, the name in which the business is to be conducted, and the place at which it is to be carried on; which statement shall be acknowledged, recorded and filed in the same manner as provided in this article for the articles of agreement. (R. S. 1889, § 2764, amended.)

(1) This and following section construed. 61 A. 75; 13 A. 108. Liability of officer receiving deposit. 89 Mo. 51. Bank engaged in general banking business has, in the absence of any restricting provisions in its charter, power to buy notes outright. 116 Mo. 51. In purchase of notes, usurious to discount in excess of lawful rate of interest on money. *Id.* Ordinary relation existing between bank and current depositor is that of debtor and creditor. 2 A. 563; 5 A. 342. Bank receiving endorsed check from customer and giving him credit on its books for so much money deposited, becomes a purchaser and title to check vests in it, and it becomes the debtor of the customer. 59 A. 540. Paper delivered to bank under such circumstances as to entitle depositor to draw against it becomes property of bank. 79 Mo. 421, 428; 80 Mo. 444. Bankers' lien—funds of depositor subject to, when. 5 A. 342; 62 A. 179. No lien, when. 11 A. 292. Liability of drawee for payment of checks upon forged endorsements. 71 A. 132. Bank liability of: For failure to present note at proper time. 36 Mo. 475. For failure to give notice whereby indorser will be discharged. 38 Mo. 60; 66 A. 47. When bank not responsible for default of its correspondent in collection of note. 56 Mo. 94. Payment of check through mistake, bank may recover, when. 11 A. 292. Authority in officers presumed from usage. 18 A. 665; 70 A. 675. Where money is credited in bank to person as trustee, bank is not authorized to pay out money on check of depositor by his individual name only. 26 A. 129. As to national bank's authority to hold land. 145 Mo. 418.

SEC. 1300. Capital not to be employed in trade, when.

No private banker who receives general deposits, after the manner of banks of deposit and discount, shall employ any part of his capital or any funds deposited with or borrowed by him in dealing or trading in buying or selling lands, goods, chattles, wares or merchandise, but he may sell and dispose of all kinds of property which may necessarily come into his possession in the collection of his loans or discounts. Nor shall any such banker use or employ his capital, or funds deposited with or borrowed by him, in any other manner than banks of deposit and discount are by this article permitted, or loan a greater amount to any person, or loan any sum whatever, except upon like security as is required to be taken by banks of deposit and discount. (R. S. 1889, § 2765.)

SEC. 1301. Penalty for violating the provisions of this article.—All the provisions of this article shall, so far as the same are applicable, apply to all private bankers doing business in this state; and any private banker who shall fail to make and file the statement required by this article of banks incorporated under the provisions of this article, or so much thereof as may be required by the secretary of state, or who shall willfully and corruptly make such statement falsely, or who shall violate any of the provisions of this article, he or they, and each of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon information or indictment, shall be punished by a fine, for each offense, not exceeding five thousand dollars, nor less than five hundred dollars, or by imprisonment not less than one, nor more than twelve months in the city or county jail, or by both such fine and imprisonment. (R. S. 1889, § 2766, amended.)

SEC. 1302. Shall not be required to pay license, etc., when.—No private banker or banking institution, after having made, recorded and filed the statement required by this article, shall be required to pay any license or tax not required of banks of deposit and discount. (R. S. 1889, § 2767, amended.)

SEC. 1303. Receiver of bank or trust company, duties of. Whenever a bank or trust company in this state is placed in the hands of a receiver for the purpose of winding up its affairs it shall be the duty of said receiver to make a report of the condition of the bank or trust company and of the progress he has made to the circuit court which appointed him, semi-annually, or as much oftener as said court or the judge thereof in vacation may require, which report shall be filed with the clerk of the circuit court on or before the first day of the first term of the court after the first day of January and the first day of July, and upon the final winding up of the affairs of the bank or trust company, said receiver shall make full report of the results of his trust, filing the same with said circuit clerk. Duplicates of all said reports shall be filed by said receiver, at the same time that they are filed with the circuit clerk, with the secretary of state. Before said receiver shall finally be discharged by the court, he shall file the books and papers of the institution of which he has been the receiver, together with his own papers in connection with the affairs of said institution, with the said circuit clerk, and said books and papers shall be filed and preserved by said clerk of the circuit court, unless they are otherwise disposed of by order of the court in the interest of the parties whose rights are involved. (New section.)

SEC. 1304. Secretary of state required to visit banks and trust companies—other examinations—expense of—schedule—examination fund—result of examinations certified to general assembly.—It shall be the duty of the secretary of state at least once in each and every year, either personally or by one or more competent persons, to be appointed by him, to visit and examine every bank and fund company organized and doing business under the provisions of the law, as found in article VIII, chapter 12 of the Revised Statutes of the state of Missouri, 1899, and trust companies organized under the law as now found in article XII, chapter 12, Revised Statutes, 1899, and amendments thereto, and which receive deposits, shall be included under the terms of this act and be included in the term bank, as used in this article. The secretary of state, or the person or persons appointed by him for that purpose, shall also have power in like manner to examine any such corporation or private bank whenever in his judgment it may be deemed necessary or expedient. He and they shall have power to administer oaths to any person whose testimony may be required in any such examination. The expense of every general or special examination shall be paid by the bank examined in such amount as the secretary of state shall certify to be just and reasonable: *Provided*, said expense shall be paid in proportion to capital stock, as follows: Any bank with a capital of \$10,000 or less shall not pay more than \$12.50; any bank with a capital of more than \$10,000 and not exceeding \$25,000 shall not pay more than \$15; any bank with a capital of more than \$25,000 and not exceeding \$50,000 shall not pay more than \$20; any bank with a capital of more than \$50,000 and not exceeding \$100,000 shall not pay more than \$30; any bank with a capital of more than \$100,000 and not exceeding \$250,000 shall not pay more than \$37.50; any bank with a capital of more than \$250,000 and less than \$500,000 shall not pay more than \$50; any bank with a capital of \$500,000 and less than \$1,000,000 shall not pay more than \$75; any bank with a capital stock of \$1,000,000 or more, shall pay no more than \$125. Permanent surpluses shall be reckoned in estimating these fees, the same as capital stock—the aggregate sum collected from the banks of the state being reckoned upon a basis to cover the entire expense of the examination of banks, traveling expenses for the secretary of state and the examiners, the reports required by this act and a sufficient time for the office work required by the examiner to prepare necessary reports to the secretary of state. All sums collected from banks for the purposes of this act to be paid directly into the state treasury and credited to the state bank examination fund, which is hereby created—payments for salary to the examiners and for other expenses under this act to be made upon the certificate of the secretary of state by warrant of the state auditor upon the state treasurer. The result of each examination of a bank shall be certified by the examiner upon the record of the corporation or private bank examined, and the result of all the examinations during the previous year shall be embodied in a report to be made by the secretary of state to the legislature. (Laws 1897, p. 83.)

SEC. 1305. Duty of secretary of state when capital is impaired—duty and compensation of agent.—Whenever the secretary of state shall have reason to believe that the capital stock of any corporation or individual banker subject to the provisions of

this act is reduced by impairment or otherwise below the amount required by law, or by its certificate or articles of association, he shall require such corporation or individual banker to make good the deficiency. Whenever it shall appear to the secretary of state from any examination made by him or his examiners that any such bank is conducting its business in an unsafe or unauthorized manner, he shall, by an order under his hand and seal, direct the discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law, and with safety and security in its transactions, and if wrong entries or unlawful uses of the funds of the bank have been made, he or they shall require that such entries shall be corrected and such sums unlawfully paid out shall be restored by the person or persons responsible for the wrongful or illegal payment thereof; and whenever any such corporation shall refuse or neglect to make any such report as is hereinbefore required or to comply with any such orders as aforesaid, or whenever it shall appear to the secretary of state that it is unsafe or inexpedient for any such corporation to continue to transact business, or that extraordinary withdrawals of money or jeopardizing the interest of remaining depositors, or that any director or officer has abused his trust or been guilty of misconduct or malversation in his official position injurious to the institution, or that it has suffered a serious loss by fire, burglary, repudiation or otherwise, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings as the nature of the case may require. Such proceedings may be for an order for the removal of one or more of the officers or members of the board of directors, or for any other remedy suggested by the conditions discovered to the court; and the court, or judge thereof in vacation, before whom such proceedings shall be instituted shall have power forthwith to grant such orders, and in its or his discretion, from time to time, to modify or revoke the same and to grant such relief as the evidence, situation of the parties and the interests involved shall seem to require. If from an examination made by the secretary of state, or by one of his examiners, it shall be discovered that any bank is insolvent, or that its continuance in business will seriously jeopardize the safety of its depositors or other indebtedness, and if the action is taken from an examination by an examiner, such examiner shall recommend the closing of the bank, then it shall be the duty of the secretary of state, if he approve such recommendation, by himself or one of his examiners, immediately to close said bank and take charge of all the property and effects thereof. Upon taking charge of any bank the secretary of state shall, as soon as is practicable, ascertain by a thorough examination into its affairs, its actual financial condition, and whenever he shall become satisfied that such bank cannot resume business or liquidate its indebtedness to the satisfaction of all its creditors, he shall report the fact of its insolvency to the attorney-general, who shall, immediately upon the receipt of such notice, institute proper proceedings in the proper court for the purpose of having a receiver appointed to take charge of such bank, and to wind up the affairs and business thereof, for the benefit of its depositors, creditors and stockholders; and it is made the duty of the court, or the judge thereof in vacation, summarily to appoint said receiver to take possession of the property and assets of said bank, for the purpose of winding up the business thereof, any compliants or opposi-

tion of the bank or its officers subsequently to be heard in open court. The secretary of state may appoint a special agent to take charge of the affairs of an insolvent bank temporarily, until a receiver is appointed; such agent to qualify, give bond and receive compensation the same as a regularly appointed bank examiner; such compensation to be paid by such bank, or allowed by the court, as costs in case of the appointment of a receiver: *Provided*, that in no case shall any bank continue in charge of such special agent for a longer period than 60 days. Any bank or trust company doing business in this state under the laws cited in this act, may place its affairs and assets under the control of the secretary of state by posting a notice on its front door as follows: "This bank is in the hands of the secretary of state." The posting of this notice or of a notice by the secretary of state that he has taken possession of any bank shall be sufficient to place all its assets and property of whatever nature in the possession of the secretary of state, and shall operate as a bar to any attachment proceedings whatever. (Laws 1897, p. 83.)

SEC. 1306. General assignment, bank or trust company cannot make—duty of secretary of state—insolvent bank or trust company cannot do what.—It shall be unlawful in this state for a bank or trust company to make a voluntary general assignment of its business and affairs. In case it shall find itself to be in a failing condition it shall immediately place itself in the hands of the secretary of state. Any deed of voluntary general assignment executed by any such bank, individual banker or trust company shall be null and void, and in case the officers or directors of any such institution shall endeavor to make any voluntary general assignment of its assets the secretary of state shall immediately take possession thereof and proceed as heretofore provided in the case of insolvent banks in this state for the appointment of a receiver by court. All transfers of the notes, bonds, bills of exchange, or other evidence of debt owing to any bank or trust company, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to it, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, shall be utterly null and void. No attachment, injunction or execution shall be issued against such bank or trust company or its property before final judgment in any suit, action or proceeding in any state, county or municipal court. (Laws 1897, p. 83, amended.)

SEC. 1307. Proceedings against corporations refusing to be examined.—If any such corporation or individual banker shall refuse to submit its or his books, papers and concerns to the inspection of the secretary of state or any of his examiners, or if any officer or director thereof shall refuse to submit to be examined upon oath touching the concerns of such corporation or individual banker, or if it or he shall be found to have violated its or his charter, or any law of the state binding upon them, the secretary of state shall report the fact to the attorney-general, who shall institute such action or proceedings against such corporation or individual bankers as is authorized in section 1305 against insolvent banks. (Laws 1897, p. 83.)

SEC. 1308. Oath and bond of examiner—who shall not be appointed—penalty for false report.—Every examiner appointed by the secretary of state shall, before entering upon the duties of his appointment, take and file in the office of state auditor an oath to support the constitution of the state, to faithfully demean himself in office, to make fair and impartial examinations, and that he will not accept as presents or emoluments any pay, directly or indirectly, for the discharge of any act in the line of his duty other than the remuneration fixed and accorded him by law, and that he will not reveal the condition of any bank or trust company examined by him, or any information secured in the course of any examination of any bank or trust company, to any one except the secretary of state. No such examiner shall be appointed who is an officer or stockholder in any bank. No such examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined pursuant to his appointment; and every such examiner shall enter into a bond, payable to the state of Missouri, in the sum of \$10,000 to be approved by the secretary of state and deposited in the office of the state auditor, conditioned that he will faithfully perform his duties as such examiner; and in case any such examiner shall knowingly report any such fund company, bank or trust company in an insolvent condition, or in case he shall report any such fund company, bank or trust company to be solvent, knowing the same to be otherwise, and any person be injured thereby, such person shall have a right of action on such bond for his injuries. Such action shall be brought in the name of the state at the relation of the injured party. (Laws 1897, p. 83.)

SEC. 1309. Compensation of examiners.—As full compensation for the performance of the duties of examiner each person so appointed shall be entitled to receive a salary of \$2000 per annum, beside necessary traveling expenses. An itemized account, which shall be approved by the secretary of state, shall be kept and rendered monthly: *Provided*, that nothing in this act shall authorize the appointment of more than four persons to assist the secretary of state in carrying out the duties imposed by this act, and the persons so appointed shall devote their entire time to the performance of the duties herein provided for. (Laws 1897, p. 83.)

SEC. 1310. Violation of oath a felony.—For any violation of his oath of office or of any duty imposed upon him by this act, any examiner shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the penitentiary for a term not exceeding five years or by a fine of not less than \$100 or more than \$1000, or by imprisonment in the county or city jail for not less than one nor more than twelve months, or by both such fine and imprisonment, and upon indictment of any such examiner for any violation of this act, he shall be disqualified from further discharging the duties of such office until such indictment is fully disposed of. (Laws 1897, p. 83.)

SEC. 1311. Examiner prohibited from accepting free transportation.—It shall be unlawful for any examiner appointed under the provision of this act to accept, receive or ride on any free transportation while engaged on official business, and any officer who shall request such free transportation for any such examiner shall be guilty of a misdemeanor. (Laws 1897, p. 83.)

ARTICLE IX.

MANUFACTURING AND BUSINESS COMPANIES.

SECTION

- 1312. Who may be incorporated—what articles shall contain.
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SEC. 1312. Who may be incorporated—what articles shall contain.—Any three or more persons who shall have associated themselves, by articles of agreement, in writing, as provided by law, for any of the purposes included under section 1319, may be incorporated under any name or title designating such business. The articles of agreement shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any corporation heretofore incorporated in this state for similar purposes, or an imitation of such name; second, the name of the city or town and county in which the corporation is to be located; third, the amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof, that the same has been *bona fide* subscribed, and one-half thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or managers; fourth, the names and places of residence of the several shareholders, and the number of shares subscribed by each; fifth, the number of the board of directors or managers, and the names of those agreed upon for the first year; sixth, the number of years the corporation is to continue, which in no case shall exceed fifty years; seventh, the purposes for which the association or company is formed: *Provided*, that if upon organizing a corporation under this article it is desired that any portion of the stock shall be preferred, the articles shall further set out the

amount of such preferred stock, the number of shares thereof, the names of the subscribers therefor, and the number of shares of such stock subscribed by each shareholder. (R. S. 1889, § 2768, amended, Laws 1891, p. 79—m.)

SEC. 1313. Articles to be signed, acknowledged and recorded.—The articles of agreement shall be signed and acknowledged by all the parties thereto, and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located; and a certified copy of such recorded instrument shall be filed in the office of the secretary of state. (R. S. 1889, § 2769, amended, Laws 1891, p. 77—n.)

(m) First—Object of the statute is to prevent corporations from conducting business in the names of firms and individuals, thereby misleading the public. 75 Mo. 424. When corporate name assumed is the name of a person or firm. See Section 969. Secretary of State must exercise his discretion in determining whether name adopted is an imitation of the name of an existing corporation. 92 Mo. 355.

Second—Must have a home, a principal place of business within the boundaries of the State. 49 A. 345; 114 Mo. 218.

Third—Property may be taken in payment of capital stock of a corporation; but at a fair, just, lawful, *bona fide* valuation. 143 Mo. 109. This rule is not relaxed by the fact that the corporators did not intend any fraud on the creditors of the corporation. *Id.* And if it is shown that the property was of less value than the par of stock, the subscriber is chargeable for the difference. *Id.* Preferred stock bearing interest absolutely is unauthorized—statutory provision for such stock being for a stated rate of dividend which should be payable only out of the net yearly income of each current year. 63 A. 367. See Section 1332. Subscriber not estopped by recital in articles of association from showing that his stock is fully paid, when. 61 A. 134. Whether it means that one-half of aggregate capital has been paid, or that fifty per cent. has been paid on each share of stock, *query*. 61 A. 134. Recital in articles of association that one-half of the stock has been paid will not estop a subscriber from proving that his stock is fully paid. *Id.* Requirement as to payment of one-half of capital stock is substantially complied with if the corporation has property where market value is greater than the par value of the stock. 13 A. 139. A. substantial compliance with conditions attached to the grant of corporate franchises is all that is required. 13 A. 139; 84 Mo. 378. Promoters who form a corporation occupy a position of trust and confidence, and it devolves upon them to make full disclosures of their interest in and relations to the property. 104 Mo. 572. Stock may be paid for in property at a fair and honest valuation. 118 Mo. 238; 131 Mo. 620; 143 Mo. 109; 61 A. 134. See Sections 962 and 1323.

Sixth—Corporate existence means full authority to transact business, and dates from the filing of articles of association with Secretary of State. 55 Mo. 310; 71 Mo. 128; 79 Mo. 410; 95 Mo. 110; 18 A. 363; 20 A. 347. Doubts as to duration of charter of business corporations resolved against unlimited duration. 129 Mo. 468. Intent expressed by the articles of association touching its duration govern, when the intent is not repugnant to the law. 141 Mo. 29. This case is treated on the assumption that the twenty-year limitation applies to educational corporations. *Id.* "Perpetual succession" implies nothing more than a continuous succession during the existence of the corporation as fixed by its charter. As thus used no measure of duration is intended. 138 Mo. 332; 129 Mo. 468; 5 A. 337. The twenty-year limitation does not apply to corporations purely charitable. 99 Mo. 533. See Section 971.

Seventh—For "purposes" See Section 1319, which is construed. 123 Mo. 56. Corporation has no authority to engage in business not within scope of its purposes as set forth in its articles of incorporation. 41 A. 665. *Ultra vires* may be pleaded, when. *Id.* See Sections 959, 960 and 971.

(n) Failure to file articles of association with Secretary of State, effect of. 107 Mo. 616; 55 Mo. 311. Subscriber cannot plead as a discharge from his subscription that he did not sign articles as Statutes require, when. 73 A. 240. Corporate existence becomes complete when the articles of association are filed in office of Secretary of State. 61 A. 142; 127 Mo. 356. See Section 955.

SEC. 1314. Certificate, evidence of incorporation.—The secretary of state shall give a certificate that said corporation has been duly organized, and the amount of its capital, and such certificate shall be taken by all courts of this state as evidence of the corporate existence of such corporation. The persons so acknowledging such articles of association, and their associates and successors, shall, for the period not to exceed fifty years next succeeding the issuing of such certificate by the secretary of state, be a body corporate; and by such name they and their successors shall be entitled to have, possess and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this article. (R. S. 1889, § 2770—o.)

SEC. 1315. Foreign corporations to procure a license from secretary of state.—No corporation organized or incorporated under the laws of any other state shall do business in this state if such company if organized in this state would organize under article 9 of chapter 12 of the Revised Statutes, or acts amendatory thereof, without first procuring a license therefor, which license shall be granted by the secretary of state. (New section—p.)

SEC. 1316. Corporation shall file copy of its articles of association with the secretary of state.—In order to procure such license it shall be necessary for the corporation applying therefor to file with the secretary of state a copy of its articles of association and charter granted by the state or territory under which it is organized, and if it shall appear that such company or corporation could not organize under the laws of this state, license shall be refused: *Provided*, that this act shall not be construed so as to permit any corporation violating the anti-trust laws of this state to have license to transact business. (New section.)

SEC. 1317. License fee.—There shall be paid to the state treasury a fee of \$10.00 by each company procuring a license for the issuance thereof. (New section.)

SEC. 1318. Attorney-general to enforce this act.—It shall be the duty of the attorney-general to enforce the provisions of this act. (New section.)

SEC. 1319. May incorporate for what purposes.—Corporations may be created under this article for any of the following purposes:

First—To carry on any kind of mining, mechanical, chemical, manufacturing, smelting, printing, coal-oil or petroleum business.

Second—To encourage and promote agriculture and the improvement of stock, and for these purposes, may establish fair grounds.

Third—To construct toll-bridges.

Fourth—To erect hotels, halls, market-houses, warehouses, exchange and other buildings, and for the purpose of purchasing, owning and renting buildings already erected.

Fifth—To build wharves, docks, grain elevators, levees, and to construct canals and embankments for the reclaiming of lands.

Sixth—To convey and transport persons and freight on land or water by any mode of conveyance whatever.

Seventh—To construct and operate horse railroads.

(o) 99 Mo. 533; 129 Mo. 463; 133 Mo. 545.

(p) See Sections 1024, 1025 and 1026.

Eighth—To purchase and use fire-engines, hose, hooks and ladders, and all other apparatus necessary or useful to prevent and extinguish fires.

Ninth—To supply any town, city, district, neighborhood or village with gas or water.

Tenth—To establish steam or other ferries.

Eleventh—For any other purpose intended for pecuniary profit or gain not otherwise especially provided for, and not inconsistent with the constitution and laws of this state: *Provided*, that nothing in this section shall be construed to authorize the incorporation of a bond investment company or association to issue bonds or debentures based upon payments upon the installment plans, nor any company which savors of the character of a trust company, bank, saving fund, building and loan or fiduciary company. (R. S. 1889, § 2771, amended, Laws 1893, p. 125—q.)

SEC. 1320. Amount of capital stock—number of directors—duration of term—how chosen.—The amount of the capital stock of the corporation shall be not less than two thousand nor more than ten millions of dollars. The property or business of the corporation shall be controlled and managed by directors, not less than three nor more than thirteen in number, who shall respectively be stockholders in such corporation, and one of whom shall be a *bona fide* citizen of this state, to be elected by ballot, by the shareholders in such corporation. Any corporation may elect its directors for one or more years, not to exceed three years, the time of service and mode of classification to be provided for by the by-laws of the corporation: *Provided, however*, that there shall be an annual election for such number or proportion of directors as may be found upon dividing the entire number of directors by the number of years composing a term. The time and place of such election shall be prescribed by the by-laws of such corporation, of which time and place at least two weeks' notice shall be published in some newspaper printed at least once a week in the city or county in which the corporation is located; and if there be no newspaper published in such county, then in any paper published in this state which circulates in the locality where such corporation is located. Such election shall be made by such of the shareholders as shall attend in person or by proxy, in writing; such shareholder shall be entitled to one vote on each share of stock, and shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election, and each shareholder may cast the whole number of his or her votes, either in person or by proxy, for one candidate, or may distribute such votes among two or more candidates; and the person having the greatest number of votes shall be declared elected. In case the election shall not be made on the

(q) Coal mining company may purchase and use steamboat for transporting its coal. 32 Mo. 305. Corporation may loan surplus and accept security for same. 48 Mo. 37. And may receive and sell notes received from sale of its lands. 30 Mo. 452. Corporation has no authority to engage in a business not within the scope of its purposes as set forth in its articles of incorporation. 41 A. 665; 139 Mo. 1. A provision in articles of association which is not responsive to any provision of the statute relating to corporations has not the effect of a charter provision imposed by statute. 13 A. 197. Section construed. 123 Mo. 56; 51 A. 70; 139 Mo. 1. See Const., Art. XII, Section 7.

day named, the said corporation shall not thereby be dissolved, but an election may be held at any other time, agreeably to the by-laws of said corporation, and the persons so elected shall hold their office until others are elected and qualified; and in case of the death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election. (R. S. 1889, § 2772—r.)

SEC. 1321. Dividends may be declared, when.—Dividends of the profits made by the corporation may be declared by the trustees or directors thereof every six months, or oftener, as the directors may elect; but no such dividends shall be made and paid to stockholders while such corporation is in an insolvent condition; and if the directors of any such corporation shall knowingly declare and pay any dividend when the corporation is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the corporation then existing, and for all that shall be thereafter contracted while they shall respectively continue in office: *Provided*, that if any of the directors shall object to the declaring of such dividend, or to the payment of the same, and shall, at any time before the time fixed for the payment thereof, file a certificate of their objections, in writing, with the clerk of the corporation and with the circuit clerk of the county, they shall be exempt from the said liability. (R. S. 1889, § 2773—s.)

SEC. 1322. Statement of affairs to be kept—stockholders to have access to books.—The trustees or directors of the corporation shall keep correct accounts of their transactions, and have full statements of the condition of the affairs of such corporation and a list of the stockholders and the number of shares of stock owned by each made out, and a copy thereof delivered or sent by mail to each of the stockholders as often as once in each year, at least ten days before the day of election; and each shareholder may at all proper times have access to the books of the company, to examine the same, and under such regulations as may be prescribed by the by-laws. (R. S. 1889, § 2774—t.)

SEC. 1323. Stock shall not be paid by note—shall not loan money to stockholders.—No note or obligation given by any stockholder, whether secured by deed of trust, mortgage or otherwise, shall be considered as payment of any part of the capital stock, and no loan of money shall be made by the corporation to any stockholder therein; and if such loan shall be made to a stockholder, the officers making it, or who shall assent thereto, shall be jointly and

(r) No stockholder, as such, can without authority from corporation bind it by contract. 139 Mo. 1. Corporation may prefer creditors and such preference not invalidated by subsequent act of general assignment. 123 Mo. 313. Discretionary powers cannot be delegated and do not pass by deed of assignment. 17 A. 447. Not less than three of the directors shall be citizens and residents of Missouri. See Sections 952, 973 and 1022. See Section 952. Also, Const, Art. XII, Section 6.

(s) Directors personally liable, when—see section 983. But dividends paid by an insolvent corporation to a stockholder, as against creditor, is fraudulent and void; and stockholder must account therefor to judgment creditor. 63 A. 521. Dividends can be paid only out of profits or net increase of capital. 25 A. 439; 35 A. 349. Directors have a large discretion in declaring dividends, but it must be exercised reasonably. *Id.*

(t) Section construed. 53 A. 547; 29 A. 301, 326; 139 Mo. 379. See section 966.

severally liable to the corporation for the amount of such loan and interest. (R. S. 1889, § 2775—u.)

SEC. 1324. Stockholders, who considered.—No person holding stock in the corporation, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder in such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholder accordingly. And the estate and funds in the hands of such executors, administrators, guardians or trustees shall be liable in like manner and to the same extent as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act and hold the same stock in his own name. (R. S. 1889, § 2776—v.)

SEC. 1325. Administrators, etc., may vote.—Every such executor, administrator, guardian or trustee shall represent the share of stock in his hands at all meetings of the corporation, and may vote accordingly as a shareholder; and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a shareholder. (R. S. 1889, § 2777—w.)

SEC. 1326. Books to be kept open.—The books and all records of the proceedings of such corporation shall be kept open for the inspection of all persons interested. (R. S. 1889, § 2778—x.)

SEC. 1327. May increase or diminish capital, when.—Any corporation now existing or which may hereafter be formed for any of the purposes contemplated by this article, may increase or diminish its capital stock by complying with the provisions of this article, in any amount within the limits of this article, and may also extend its business to any other purposes authorized by this article, subject to the provisions and liabilities thereof; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital; and any existing corporation heretofore formed under the general law or any special act, may come under and avail itself of the privileges and provisions of this article, by complying with the following provisions; and thereupon such corporation, its officers and stockholders, shall be subject to all restrictions, duties and liabilities of this article. And any corporation increasing its capital stock shall, before the same shall take effect, cause to be paid up of such increase of capital not less than 50 per cent. in lawful money of the United States. (R. S. 1889, § 2779, amended, Laws 1895, p. 103—y.)

SEC. 1328. Meeting of stockholders to increase stock, etc., how called and notified.—Whenever any corporation shall

(u) Stock and bonds, for what issued—see section 962. Also Const. Art. XII, section 8.

(v) One may render himself liable as stockholder in a corporation as well by his conduct in respect to the stock of the corporation, as by formal subscription and acceptance of stock. 72 Mo. 110. See Const. Art. XII, section 9.

(w) See section 947.

(x) See section 966, 986 and 1024.

(y) See Const. Art. XII, section 8.

desire to call a meeting of the stockholders, for the purpose of availing itself of the privileges and provisions of this article, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least sixty days, and to deposit a written or printed copy thereof in the post-office, postage prepaid, addressed to each stockholder, at his usual place of residence, at least sixty days previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be extended or changed. An affirmative vote of the persons holding the larger amount in value of all the shares of stock shall be necessary to increase or diminish the amount of its capital stock, or to extend or change its business as aforesaid, or to enable a corporation to avail itself of the provisions of this article. The notice provided for in this section shall be published at least once a week, and the first publication must be at least sixty days before the day of such meeting. (R. S. 1889, § 2780—z.)

SEC. 1329. Meeting, how organized—capital, how increased, etc.—If, at any time and place specified in the notice provided for in the preceding section, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting and a suitable person for secretary, and proceed to a vote of those present, in person or by proxy; and if, on canvassing the vote, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or changing its business as aforesaid, or availing itself of the privileges and provisions of this article, a statement of the proceedings, showing a compliance with the provisions of this article, the amount of capital actually paid in the business to which it is extended or changed, the whole amount of assets and liabilities of the corporation, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary; and such statement shall be acknowledged by the chairman, and recorded, as provided in section 1313, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state, who shall thereupon issue a certificate that such corporation has complied with the law made and provided for the increase or decrease of capital stock, as the case may be, and the amount to which such capital stock is increased or decreased; and such certificate shall be taken in all courts of this state as evidence of such increase or decrease of stock; and thereupon the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid, and the corporation shall be entitled to the privileges and provisions and be subject to the liabilities of this article: *Provided*, that in cases of increase of capital stock, the statement above pro-

(z) Statement must show the newspaper publication of notice of proposed increase or decrease of capital stock, as required by section 1329. The newspaper notice is required for the public at large, while the notice sent by mail to stockholder is for the stockholder. 86 Mo. 239.

vided for shall set out the percentage of the increase that has been actually paid up in lawful money of the United States, and that it is in the custody of the board of directors. (R. S. 1889, § 2781, amended, Laws 1895, p. 103—a.)

SEC. 1330. Stockholder not liable, when.—No stockholder shall be personally liable for the payment of any debt contracted by any corporation created under this article, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such corporation within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such corporation for any debt so contracted, unless the same shall be commenced within two years from the time he shall cease to be a stockholder in such corporation, nor until an execution shall have been returned unsatisfied, in whole or in part. (R. S. 1889, § 2782—b.)

SEC. 1331. May carry on business, where.—Any corporation organized under the provisions of this article shall have authority to carry on its operations in any part of this state. (R. S. 1889, § 2783.)

SEC. 1332. Preferred stock, when capital is increased—how voted and issued.—Whenever any corporation shall desire to call a meeting of its stockholders for the purpose of increasing the amount of its capital stock, and the directors thereof shall deem it advisable for the best interests of said company to submit, at the time and place of said meeting, to the stockholders, whether said stock so proposed to be increased shall be preferred, and the amount, number of shares, the price per share, in case an increase shall be determined, and also the character thereof, and in case additional notice to such effect shall have been given for the time as required by this article, for the purpose of increasing said capital stock, then, if on canvassing the votes of the said stockholders, as required by this article, it shall appear that all the stock of said company shall have been cast for the increase of its stock, and that all the stockholders have voted that the said increased stock shall be preferred, the said stockholders shall also, at said time and place, by like vote, determine the amount, the number of shares, and the price per share of said increase, and what rate of dividend, not exceeding eight per cent. per annum, shall be paid on said preferred stock out of the net yearly income earned in any one current year, before any dividend shall be made and paid on the general stock of said corporation. (R. S. 1889, § 2784, amended, Laws 1891, p. 78, Laws 1895, p. 104—c.)

SEC. 1333. When stock is increased, statement to show what.—The statement required by section 1329 of this article, in case said capital stock shall be increased in the manner provided in the foregoing section, shall also set forth the amount and number of

(a) See Const. Art. XII, section 8.

(b) Obsolete, as it applies only to stockholders' statutory liability, which has been abolished. 56 A. 86; 123 Mo. 96; 122 Mo. 114. When suit against the corporation need not be brought within one year. 1 A. 170; 2 A. 87.

(c) Preferred stock bearing interest absolutely in, unauthorized. 63 A. 387. See section 1312. Also Const. Art. XII, section 8. An agreement to pay preferred stockholders dividends or interest will be construed as subject to an implied condition that the payments will be made out of the net profits which are legally applicable to such payments. 123 Mo. 803.

shares, the price per share of such increased preferred stock, and also the rate of dividend to be paid thereon. (R. S. 1889, § 2785—d.)

SEC. 1334. Consolidation of companies, how effected. Any two corporations now existing under general or special laws, or which may be hereafter created, whose objects and business are in general of the same nature, may amalgamate, unite and consolidate said corporations and form one consolidated corporation, holding and enjoying all the rights, privileges, power, franchises and property belonging to each, and under such corporate name as they may adopt or agree upon; such consolidation shall be made by agreement in writing, by or under the authority of the board of directors and the assent of the owners of at least three-fifths of the capital stock of each of said corporations, and a certificate of the fact of such consolidation, with the name of the consolidated company, shall be recorded in the office of the recorder of deeds of the city or county in which such corporation is located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state: *Provided*, that no such consolidation shall in any manner affect or impair the rights of any creditors of either of said corporations; *and provided further*, that corporations so consolidating shall accept the provisions of this article. Such agreement may provide for the number of directors of said corporations, not exceeding thirteen. (R. S. 1889, § 2786—e.)

SEC. 1335. *Id.* Property of, subject to taxation.—All the property and effects of such consolidated corporation shall be liable to be taxed as other property in this state, any provision in the charter of any of said corporations to the contrary notwithstanding. (R. S. 1889, § 2787—f.)

SEC. 1336. Two preceding sections, application of.—The provisions of the two last preceding sections shall apply only to corporations organized or created solely for manufacturing purposes. (R. S. 1889, § 2788.)

SEC. 1337. May authorize holders of bonds to convert them into stock, etc.—Any corporation now existing under the general law of this state, or which may hereafter be formed under the laws of this state, for any of the purposes contemplated by this article, may, by a vote of its stockholders, representing at least two-thirds of its stock, at a meeting called for that purpose, and in compliance with sections 1328 and 1329, so far as the same may apply, authorize the holders of any bonds that may have been issued by said corporation to exchange the same for and convert the principal thereof into stock of said corporation, at such rates and upon such terms as may be agreed upon as aforesaid, provided such shares of stock shall not be valued at less than their market or actual value; and as said bonds shall thus be exchanged and converted, the stock issued for and in payment of such bonds shall, as the same shall be exchanged and converted, form part of the stock of said corporation, and be entitled to all the benefits and privileges of any other stock of said corporation: *Provided, however*, that the amount of stock thus issued, together with the stock theretofore issued, shall not exceed, in the aggregate, the amount of stock which said corporation is authorized to issue by law. (R. S. 1889, § 2789.)

(d) See Const. Art. XII, section 8.

(e) 91 Mo. 217. Consolidation creates a new company as effectively as any other mode allowed by law. 145 Mo. 322.

(f) See Conset. Art. X, section 2.

SEC. 1338. Jurisdiction of circuit court over directors, etc.—The circuit court shall have jurisdiction over the directors, managers, trustees and other officers of corporations now existing or hereafter organized under and by virtue of this article: First, to compel such directors, managers, trustees and other officers to account for their official conduct in the management and disposition of the funds, property and business committed to their charge; second, to order, decree and compel payment by them to the corporation which they represent, and to its creditors, of all sums of money and of the value of all property which they may have acquired to themselves, or transferred to others, or may have lost or wasted by any violation of their duties or abuse of their powers as such directors, managers, trustees or other officers of such corporation; third, to suspend any director, trustee, manager or other officer from exercising his office whensoever it shall appear that he has abused his trust; fourth, to remove any such director, trustee or other officer upon proof or conviction of gross misconduct; fifth, to direct, if necessary, new elections to be held by the body, or board, or stockholders, duly authorized for that purpose, to supply any vacancy created by such removal, and at such election no person so removed or suspended shall be eligible as a director, trustee or other officer of such company; sixth, to restrain and prevent any alienation of property of the company by said directors, trustees or other officers, in cases when it may be threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interest of such company. (R. S. 1889, § 2790—g.)

SEC. 1339. *Id.* Court may appoint receivers, etc.—In proceedings under this article, the court may appoint one or more receivers to take charge of the business, property and effects of such corporation, and to collect, sue for and recover the debts and demands that may be due, and the property that may belong to such corporation, who shall in all respects be subject to the control of the court. (R. S. 1889, § 2791—h.)

SEC. 1340. Jurisdiction, how exercised.—The jurisdiction conferred by this article shall be exercised as in ordinary cases, on petitions filed by or at the instance of any director, trustee or other officer of such corporation having a general superintendence of its concerns, or at the instance of any creditor or stockholder of such corporation. (R. S. 1889, § 2792—i.)

SEC. 1341. Gas, electricity and water companies, powers of.—Any corporation formed under the provisions of this article, for the purpose of supplying any town, city or village with gas, electricity or water, shall have full power to manufacture and sell, and to furnish such quantities of gas, electricity or water as may be required in the city, town or village, district or neighborhood where located, for public or private buildings or for other purposes; and such corporations shall have the power to lay conductors for convey-

(g) 91 Mo. 217; 123 Mo. 313; 138 Mo. 408.

(h) An insolvent, but active corporation, has same right to prefer creditors as a natural person. 37 A. 145; 92 Mo. 79; 38 A. 229; 39 A. 131; 123 Mo. 313; 138 Mo. 408. The presumption is, that the appointment of a receiver by a court having jurisdiction is valid. 13 A. 561. Attack upon acts of receiver cannot be made collaterally. *Id.* 134 Mo. 573.

(i) Code of civil procedure, section 753, provides for appointment of receivers, when not otherwise provided for. 86 Mo. 606; 135 Mo. 230; 123 Mo. 313; 134 Mo. 573; 138 Mo. 408.

ing gas, electricity or water through the streets, lanes, alleys and squares of any city, town or village, with the consent of the municipal authorities thereof, and under such reasonable regulations as said authorities may prescribe. (R. S. 1889, § 2793—j.)

SEC. 1342. Authority of municipality to contract, etc. The municipal authorities of any city, town or village are hereby authorized to contract with any such corporation for the lighting by gas, electricity, or supplying with water, the streets, lanes, alleys, squares and public places in any such city, town or village. The municipal authorities of any city, town or village, in which any water company shall be organized under this article, may contract with any such company for the purpose of supplying with water the streets, lanes, alleys, squares and public places in any such city, town or village, for any length of time which shall be agreed upon between such city, town or village and such company, for a term not to exceed twenty years; and the provisions of this section shall apply to all cities, towns and villages in this state, whether organized by special charter or under the general laws of the state, any provisions in any special charter of any city, town or village in the state to the contrary notwithstanding: *Provided*, that contracts entered into under the provisions of this act shall have no legal form until the same shall be submitted to a vote of the qualified voters, at a general or special election of such city, town or village, and shall be ratified by a two-thirds majority of the legal votes polled at said election. (R. S. 1889, § 2794—k.)

SEC. 1343. Corporations to supply cities, etc., with water—may erect dams, etc.—right of way, how obtained. Any corporation, company or individual proposing to supply with water any city, town or village, shall have the right to take water from any stream that is not navigable, and to erect a dam thereon and to lay pipes for the conveyance of water in, over or through any lands situated between the source of water supply and the point of delivery of said water, and to acquire by condemnation sufficient lands upon which to build works for the pumping, storage, distribution and management of water, upon complying with the proceedings herein provided for. In case any such corporation, company or individual cannot agree with the owners of such water or lands sought to be obtained, or right of way, upon compensation to be paid, or in case the owner is incapable of contracting, be unknown, or be a non-resident of this state, such corporation, company or individual may apply to the circuit court of the county where said land or any part thereof lies, or the judge thereof in vacation, by petition stating what is desired. (R. S. 1889, § 2795.)

SEC. 1344. Proceedings in condemnation.—Upon the presenting of the petition mentioned in the foregoing section to the circuit judge, he shall order the petition filed and a summons to issue, giving such owners at least ten days' notice of the time when said petition will be heard, which summons shall be served by the sheriff of the county, in the same manner as writs of summons are or may be by law required to be served. If the name or residence of the owners be unknown, or if the owners, or any of them, do not reside in the state, notice of the time of hearing of the petition, reciting the sub-

(j) 123 Mo. 320; 134 Mo. 573; 50 A. 103.

(k) 50 A. 103; 130 Mo. 10.

stance of the petition and the day fixed for the hearing thereof, shall be given by publication for three weeks consecutively, prior to the time of hearing the petition, in a newspaper published in the county in which the proceedings are pending, if one is published in the county, or if no newspaper is published in such county, or if the publisher shall refuse to publish the same on tender of his usual charges for advertising, then posting up said notice for three consecutive weeks at the door of the court-house of the county wherein the lands, or any portion of them lie. (R. S. 1889, § 2796—1.)

SEC. 1345. Assessment of damages—commissioners.—

The court, or the judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be freeholders, resident of the county in which the real estate or stream of water or a part thereof is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property, shall forthwith return, under oath, such assessment of damages to the clerk of the court where such petition was filed, setting forth the amount of damages; and should more than one owner be included in the petition, then the damages allowed each shall be stated separately, together with a specific description of the property for which such damages are assessed, and the clerk shall file said report and record the same in the order-book of the court; and thereupon such corporation, company or individual, shall pay to the said clerk the amount thus assessed, for the party in whose favor such damages have been assessed, and on making such payment, it shall be lawful for such corporation, company or individual to hold the interest in the property so appropriated for the uses aforesaid; and upon failure to pay the assessment aforesaid, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless said corporation, company or individual shall, within ten days from the time of receiving the notice of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument, in writing, to that effect, to be filed with the said clerk, which shall be entered on the minutes of the court; and as to so much as is thus abandoned, the assessment of damages shall be void. And under the provisions of this article, the commissioners or jury shall be authorized to inquire and make report as to the value of the use of any such stream, or the diversion of the waters thereof, in whole or in part, or what damage will be done by the erection and maintenance of a dam, or buildings, or the use of such stream in any manner for the purposes aforesaid, specifically stating to whom and upon what account damages are awarded; and any person interested may appear and be made a party, and have a right to file his exceptions to such report within the time prescribed by law. (R. S. 1889, § 2797.)

SEC. 1346. Joinder of defendants.—Any number of owners owning lands in the same county or judicial circuit may be joined in one petition, and the damages to each shall be separately assessed by the same commissioners or jury. (R. S. 1889, § 2798.)

SEC. 1347. Report of commissioners—exceptions and proceedings thereon.—Upon the filing of such report of such commissioners, the clerk of the court wherein the same is filed shall

duly notify the party whose property is affected of the filing thereof, and as well the corporation, company or individual; and the report of said commissioners may be reviewed by the court in which the proceedings are had, on written exceptions, filed by either party in the clerk's office within ten days after service of the notice aforesaid, and the court shall make such order therein as right and justice may require, and may order a new appraisal upon good cause shown. Such new appraisal shall, at the request of either party be made by a jury under the supervision of the court, as in ordinary cases of inquiry of damages; but notwithstanding such exceptions, such corporation, company or individual may proceed to appropriate the property so condemned and use it for any or all of the purposes aforesaid, and any subsequent proceedings shall only affect the amount of compensation to be allowed. In all cases arising under the provisions of the four preceding sections, the report of the commissioners, when signed by a majority of them, shall be taken and considered as the report of all. (R. S. 1889, § 2799.)

SEC. 1348. Cost.—The cost of the proceeding to appropriate the property as aforesaid shall be paid by the corporation, company or individual seeking the appropriation, up to and including the filing and copying of the report of the commissioners, and the court, as to any costs made by any subsequent litigation, may make such order as in its discretion may be deemed just. The court shall allow the commissioners a reasonable compensation for their services, which shall be taxed as costs in the proceedings. (R. S. 1889, § 2800.)

SEC. 1349. Buildings not to be appropriated.—No corporation, company or individual shall be authorized to enter or appropriate any dwelling, barn, store, warehouse or similar building erected for any agricultural, commercial or manufacturing purposes. (R. S. 1889, § 2801.)

SEC. 1350. Rights of other corporations not to be interfered with.—In case the property sought to be appropriated is held by any corporation, the right to appropriate the same for the purposes aforesaid by any corporation, company or individual shall be limited to such use as shall not materially interfere with the uses to which by law the corporation holding the same is authorized to put said property. Where no agreement can be made between the parties, the mode of assessing the damages provided heretofore as to private persons shall be adopted, and if the property to be appropriated lies in more than one county, an application may be made in any one county in which any of the lands lie, and the damages shall be assessed as to all the lands of the defendant corporation along the whole line in one proceeding. (R. S. 1889, § 2802.)

SEC. 1351. Bridge companies, how formed.—Any number of persons, not less than ten, may form a company for the purpose of constructing and maintaining a bridge over any of the streams of water or any part of such streams which may be within this state, for public use, for the crossing of persons or property, according to the provisions of this article. (R. S. 1889, § 2803.)

SEC. 1352. May condemn lands.—In case it may become necessary for any bridge corporation heretofore organized or that may be hereafter organized under section 1351, to take or appropriate any lands of persons or corporations for approaches, road, foot or wagonways of such bridge corporation, and the owners of said property

cannot agree with said corporation upon the proper compensation to be paid, or in case the owner is incapable of contracting, unknown or a non-resident of the state, then the said property may be taken by said bridge corporation in the same manner that is provided for by law in relation to the appropriation and valuation of lands taken for telegraph, macadamized, graded, plank and railroad purposes. (R. S. 1889, § 2804.)

SEC. 1353. *Id.* **Rights and privileges.**—Any bridge corporation organized under this article shall have the right to issue bonds or other evidences of indebtedness, negotiate loans for the construction of said bridge, secure such indebtedness by deed of trust or mortgage on the property of said corporation, and may consolidate its franchises and property with those of any bridge corporation within this state, or any corporation within an adjoining state, the bridges of which corporations connect. (R. S. 1889, § 2805.)

SEC. 1354. **Merchants' and mechanics' exchange companies, rights, powers and privileges of.**—Whenever any corporation organized under this article for the purpose of erecting buildings to be used as a merchants' or mechanics' exchange, in any city having over thirty-five thousand inhabitants, shall have selected for the location of its buildings any piece or parcel of land, not exceeding one block in extent, in such city or town, and the municipal authorities thereof shall have approved such location, or the persons owning the major part in value of the real estate covered by said location shall have consented to sell the same to said company, then, and in either of said events, and in case any owner of any real estate in said block, or of any interest therein, cannot agree with said company upon the proper compensation to be paid, or in case such owner is incapable of contracting, unknown, or a non-resident of the said state, said property shall be taken by said company in the same manner as provided for by law in relation to the appropriation and valuation of lands taken for telegraph, macadamized, graded, plank or railroad purposes: *Provided*, that in assessing the value of the property to be condemned under the provisions of this section, the benefits or advantages of the erection of such exchange buildings, which may accrue to the owner or owners of the property condemned or adjoining thereto, shall not be taken into consideration; but the value of the same shall be truly determined without regard to any such advantages or benefits, whether real or supposed; and said municipal authorities may also, by ordinance, abolish any alley running through any such block of ground so selected as aforesaid within the limits of their municipal corporation, and convey to said company, on such terms as may be agreed on, the land on which said alley is laid out, if the land on both sides of said alley throughout its whole length is owned by said company. (R. S. 1889, § 2806.)

SEC. 1355. **Street railroads may change motive power.** Every street railroad company in any city of this state, which, by its charter or articles of association, is or may be only authorized to use horse-power for its operation, is hereby empowered to also use such other motive power for that purpose as it has been or may be permitted by the ordinances of such city to use. (R. S. 1889, § 2807.)

ARTICLE X.

MUTUAL SAVING FUND, BUILDING AND LOAN ASSOCIATIONS.

SECTION

- 1356. How incorporated.
- 1357. What articles of agreement shall set forth.
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SECTION

- 1378. Power to extend time of corporate existence.
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- 1390. Examiner's bond—oath—penalty.
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- 1392. Duties and powers of supervisor when corporations are violating law.
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SEC. 1356. How incorporated.—Any number of persons, not less than twenty-five, who are residents of this state, and who shall have associated themselves together by an agreement in writing, such as is hereinafter described, with the intention to constitute a corporation for the purpose of assisting each other, and all who may afterward become associated with them, in acquiring real estate, making improvements thereon and removing incumbrance therefrom, by advancing to its members out of a fund accumulated by the payment of periodical installments or otherwise, a sum equal to the par value of their shares, and for the further purpose of accumulating the savings of its members to be returned to such of its members who do not obtain advances for any of the purposes above mentioned, when the savings and the profits arising therefrom shall amount to a certain sum per share, to be specified in the articles of agreement, shall become a corporation on complying with the provisions of this article, and shall remain a corporation, with all the powers and privileges, and subject to all the duties, limitations and restrictions, conferred by general laws upon corporations, except as hereinafter otherwise provided. (Laws 1895, p. 105—m.)

SEC. 1357. What articles of agreement shall set forth. Said articles of agreement mentioned in the foregoing section shall set forth:

First—The name of the proposed corporation, which shall not be the same as the name of any corporation already incorporated in this

(m) Incorporators of building association cannot be exempted from paying incorporation tax required by constitution. 96 Mo. 193. In absence of by-law or charter or express contract one stockholder should not be given preference over another in distribution of proceeds of insolvent association. 140 Mo. 566. Stock, how taxed. 145 Mo. 50. Where association exceeds its corporate powers its franchise may be declared forfeited. 142 Mo. 325.

state for similar purposes and actually carrying on business, nor so nearly the same as to be liable to be mistaken therefor. The words "building and loan association," or "savings and loan association," shall form part of the name of every corporation created under this article.

Second—The name of the city or town and county in which such association is to be located.

Third—The limit of the capital to be accumulated, the number of shares into which it is divided and the par value of each share, the number of shares subscribed for, which shall not be less than thirty in number, and that the first month's dues have been paid thereon.

Fourth—The names and places of residence of the several incorporators, and the number of shares subscribed by each.

Fifth—The number of directors and the names of those agreed upon for the first year.

Sixth—The number of years the corporation is to continue, which in no case shall exceed fifty years.

Seventh—The purposes for which the corporation is formed. The articles of agreement shall be signed and acknowledged, as required by law in the case of deeds conveying real estate, by any ten of the parties thereto, and shall be recorded in the office of the recorder of deeds in the county or city in which the corporation is to be located; and a copy thereof, certified by the said recorder to be a correct copy of the same as filed in his office, shall be filed in the office of the secretary of the state. (R. S. 1889, § 2809, amended, Laws 1895, p. 105.)

SEC. 1358. Adoption of by-laws.—The shareholders of such corporation may make and adopt all necessary by-laws, rules and regulations for the government of the affairs and business of the corporation, provided that the same shall not be inconsistent with the constitution or laws of the state. A copy of such by-laws, rules and regulations shall be filed in the office of the state treasurer. Unless corporations organized hereunder shall engage in business as provided in this article within two years after the date of the issuing of the certificate of incorporation, such certificate shall be deemed revoked. (Laws 1895, p. 105.)

SEC. 1359. Election and qualification of officers and directors.—The number, title and functions of the officers of any corporation created by virtue of this or any previous article, their terms of office, the time of their election, as well as the qualification of electors, and the time of each periodical meeting of the officers and shareholders of such corporation, shall be provided for in the by-laws. No person shall be eligible to become or shall continue a director unless he shall be the owner of at least two share of the capital stock of such corporation, and not delinquent in any manner upon any payments due from him to said corporation. Any proxy dated prior to six months before the annual meeting of any association, as provided in its by-laws, shall be void. All officers of any building, loan and savings association (except the president and vice-president) doing business in this state, whether created under this article or any previous laws of this state, who have the custody or handling of, sign or endorse checks, or any of the funds or securities of such association, shall give such security for the faithful performance of their duties

as the by-laws may require, and no such officer shall be deemed qualified to enter upon the duties of his office until such security is approved by the board of directors and the circuit court in the county in which the main office of the association is located. All such bonds shall be filed with the supervisor of building and loan associations, or some depository designated by him: *Provided*, that the supervisor of building and loan associations may require of any officer at any time such additional security, or such increase of said bond, or new bond, as he may, upon sufficient cause shown, deem necessary for the protection of the corporation and its members. The penalty for the failure of any association to file and maintain security furnished by its officers, as required by provisions of this section, shall be a fine of ten dollars (\$10) for each day such association shall transact business after the time such bond should have been given and deposited under the provisions of this article, which penalty, when collected, shall be paid into the state treasury and credited to the building, loan and savings association fund in the state treasurer's office. (Laws 1895, p. 105, amended—n.)

SEC. 1360. Corporations not to expire from neglect.—No corporation created under this article shall cease or expire from neglect on the part of such corporation to elect officers at the time mentioned in the charter or by-laws, and all officers elected by such corporations shall hold their respective offices until their successors are duly elected. (R. S. 1889, § 2815, amended, Laws 1895, p. 105.)

SEC. 1361. Powers.—The object of such corporation shall be the accumulation of a capital in money, to be derived from payments by its members in periodical installments or otherwise, at such time and in such manner as shall be provided in the by-laws, and from the profits and accumulation arising from the investment of such payments. The capital so accumulated by any corporation created by virtue hereof shall not exceed in the aggregate and full ultimate value the sum of ten million dollars, and shall be divided into shares of equal value; the ultimate value of such shares shall not exceed one thousand dollars. Said capital may be issued in full paid, prepaid or installment shares, in such amounts and at such times and in such manner as may be provided in the by-laws. Payments of dues or installments on shares shall commence and date from the time provided in the by-laws. There shall be issued to every shareholder a certificate signed by the president and secretary of the corporation, and evidenced by its corporate seal, setting forth distinctly and clearly the class of stock for which he has subscribed, and the provisions in the by-laws relating to stock of the class, the interest which it may draw, and the withdrawal value which it may have at any time, and also the time when the said stock shall be withdrawable. Such certificate shall be deemed in all courts of justice to be a contract between the corporation and the shareholder, and shall determine at all times the liability of the corporation to the holders of its shares. It shall be subject to a lien in favor of the corporation for the payment of unpaid installments, fines and other charges incurred thereon, under the provisions of the charter and by-laws. The by-laws may prescribe the form and manner of enforcing such lien. New shares may be issued in lieu of any shares withdrawn, redeemed, canceled or forfeited. Said capital, as accumulated, shall from time to time be loaned or advanced to

(n) Stockholder may maintain suit to restrain directors, when. 134 Mo. 32.

members of the corporation, who shall give security for the prompt and continued payment of all dues, interest, premium and fines, until each of the shares so advanced upon shall reach the ultimate and full value thereof. (Laws 1895, p. 105—o.)

SEC. 1362. Loans or advances, how made.—The moneys accumulated from payments on account of stock, interest, premiums and fines, as aforesaid, or from any other source whatsoever, after due allowance made for all necessary and proper expenses, and subject to the provisions hereinafter in section 1370 contained and set forth respecting the withdrawal and cancellation of shares, may, at times provided in the by-laws, be offered to such shareholder or shareholders who shall bid the highest premium for the preference or priority of right to have a loan or advance of a sum equal to the ultimate value of one or more of his or their respective shares; and such shareholders so bidding the highest premium as aforesaid shall be entitled to receive a loan or advance of a sum of money equal to the full value of each share held by him, in the method provided for in the by-laws of such association; the said premium bid may be deducted in gross from the amount of the loan, or may be charged, and required to be paid in proportionate amounts or installments, at such time during the existence of the shares of stock loaned or advanced upon as may be provided in the by-laws of the association: *Provided*, that where the stock of an association is issued in series, or at different times, in such manner that all said stock will not mature at the same time, then the borrower shall pay only such proportion of the full premium as the number of months his stock lacks of being one hundred and twenty months old, bears to one hundred and twenty months. Said association may provide in its by-laws that the bid for loans at its stated meetings, instead of a premium, shall be a stated rate of annual interest upon the sum desired, payable in periodical installments; such bids shall be the interest to be paid during the whole period of the loan or advance. A shareholder shall be entitled to borrow such fractional part of a share as the by-laws may provide. In case there shall be a balance of money remaining undisposed of at any stated meeting, the directors may, at their discretion, loan the funds so remaining on hand to others than stockholders on the security of prime unincumbered real estate: *Provided*, that any such association may, by its by-laws, dispense with the offering of its money for bids, and in lieu thereof loan or advance its money to members at such a rate of interest or interests and premium as may be provided by the by-laws, such premium to be paid in gross installments. (R. S. 1889, § 2812, amended, Laws 1895, p. 105—p.)

SEC. 1363. Premiums.—Premiums for loans or advances as aforesaid shall consist of a percentage on the amount to be loaned, advanced or borrowed, and shall be a charge, in addition to interest as aforesaid, on the amount loaned, and said premium shall be deemed and taken to be a consideration or bonus paid by the borrower for the present and immediate use and possession of the future or ultimate value of the shares so pledged, and shall, together with interest and fines paid, be received by said corporation as a profit on the amount of capital invested in said loan, and shall be ratably divided and dis-

(o) Association cannot fix arbitrary period within which shares of members shall mature. 147 Mo. 343; 134 Mo. 32.

(p) Loan on personal security not void. 73 A. 551; 134 Mo. 32.

tributed to the various shares, severalties and series of said capital. (Laws 1895, p. 105—q.)

SEC. 1364. No usury.—No premium, fines or interest or interest on such premiums, that may be charged by or accrue to the said corporation according to the provisions of this article, shall be deemed usuries, and the same may be collected as debts of like amount are now by law collected: *Provided*, that this section shall be no protection against any unreasonable and extortionate charge, fine or interest made by such corporation in its spirit usurious, and oppressive acts, and they shall be open to investigation and correction by the courts of the state. (R. S. 1889, § 2814, amended, Laws 1895, p. 105—r.)

SEC. 1365. Security.—For every loan or advance made as aforesaid, a non-negotiable note or a bond secured by first mortgage or deed of trust on real estate shall be given, accompanied by a transfer and pledge of the shares of stock of the member or members so obtaining a loan or advance. Said shares so transferred and pledged shall be held by corporation as additional or collateral security for the performance of the agreements, covenants and conditions of said note or bond and mortgage or deed of trust. Said note or bond and mortgage or deed of trust shall recite and set forth the number of shares transferred and pledged by the particular shareholder so borrowing, and the amount of money advanced thereon, and shall be expressed to be conditioned for the payment at the stated meetings, or at such other times as may be agreed upon, to the corporation of the dues on the number of shares so pledged and advanced upon, and the interest and premium upon the loan or advance for which said shares are pledged, and said note or bond and mortgage or deed of trust given, together with all fines chargeable upon arrears of such payment, until said shares shall reach the ultimate value thereof, or said loan shall be otherwise sooner canceled and discharged: *Provided, however*, that the shares of the particular corporation without other security, may, in the discretion of the board of directors, be accepted as security for loans or advances, to an amount not exceeding three-fourths of the withdrawal value of such shares at the time, as shown by the books of such association. In case a shareholder shall neglect to offer security for a loan or advance, within such time as the by-laws may prescribe, or, offering security, the same shall not be approved or accepted by the board of directors, his right to such loan or advance shall be forfeited, and he shall be charged with and pay interest and premium at the agreed rate, until the next stated meeting, together with all expenses incurred, if any; and the money so forfeited shall be subject to be reloaned at the next or any subsequent stated meeting. The provisions of this section shall apply to corporations heretofore organized as well as to those hereafter to be organized. (Laws 1895, p. 105.)

SEC. 1366. Non-payment by borrower—recovery of loan. In case any borrowing shareholder shall for the period of six successive months fail to pay the dues, interest, fines and other charges required of him by the by-laws, or shall become indebted to such association in a sum equal to the gross amount of the dues, interest, fines and other charges for the period of six months, the association may proceed, according to law, to foreclose the mortgage or deed of trust given by such borrower as security for the loan, in which event the defaulting bor-

(q) 62 A. 278.

(r) As to usurious charges. 75 A. 551; 74 A. 468.

rower, in addition to amount loaned, as shown by the bond and mortgage or deed of trust given by such borrower, shall be charged with all dues, interest, premiums and fines and other sums due and in arrears, and shall have and be given credit for the withdrawal value of the shares pledged and transferred by him as aforesaid, in accordance with the rule hereinafter, in section No. 1370, provided for the withdrawal and cancellation of shares. Where the full amount of agreed premium has been deducted at the time of making the loan or advance, the borrower shall also be credited with one one hundred and twentieth part of the amount of the premium for every month that the series in which the loan was made lacks of being one hundred and twenty months old; and the balance found to be remaining due over and above such credit, together with all expenses incurred in and about the foreclosure of said deed of trust, shall be recovered and enforced on his security. If the amount realized from the sale of the property pledged for the loan or advance, less all legal charges, shall exceed the amount thus found due, the balance shall be paid to the delinquent borrower. (Laws 1895, p. 105—s.)

SEC. 1367. Corporation may buy and sell real estate.—

Any corporation created by or under this article is hereby authorized and empowered to purchase at any sheriff's or other judicial sale, or at any other sale, public or private, any real estate upon which such corporation may have or hold any mortgage, deed of trust, judgment, lien or other encumbrance, or in which such corporation may have an interest; and the real estate so purchased to sell, convey, lease or mortgage, at pleasure, to any person or persons whatsoever. (R. S. 1889, § 2816, amended, Laws 1895, p. 105.)

SEC. 1368. Repayment of loan.—A shareholder may repay a loan at any time upon application to said corporation, by giving thirty days' notice in writing, upon such terms and conditions as may be prescribed in the by-laws of the association; if there be no such by-law, then, on settlement of his account, such borrower shall be charged with the full amount of the loan as originally made to him, together with all installments of dues, interest, premium and fines, and other sums of money, then remaining due and unpaid, and shall receive and be given credit, if he desires to surrender his shares, for the withdrawal value of the shares pledged and transferred by him as security for said loan, in accordance with the rule hereinafter (in section 1370) provided for the withdrawal and cancellation of shares; and where the full amount of the agreed premium bid has been deducted at the time of making the loan or advance, then the borrower shall also be credited with one one hundred and twentieth part of the amount of the gross premium bid for every month that the series in which the loan was made lacks of one hundred and twenty months old; and the balance found remaining due, over and above such credit, shall be received by said corporation in full satisfaction and discharge of said loan or advance: *Provided*, that all settlements made at periods intervening between stated meetings of the directors shall be made as of the date of the stated meeting next succeeding such settlement; and *provided further*, that a shareholder desiring to retain his shares and membership thereunder may, at his option, repay his loan, as above provided, without claiming credit for said shares as part payment of the amount of his debt, whereupon said shares shall be

(s) Borrowing member cannot compel foreclosure of his mortgage. 64 A. 46.

retransferred to him, and he shall assume and be entitled to all privileges of non-borrowing members, free, clear and discharged of and from any claim thereon by reason of said canceled loan or advance. (R. S. 1889, § 2813, amended, Laws 1895, p. 105.)

SEC. 1369. Payments, when and how made—and shares, when and how matured.—Each shareholder shall pay to said corporation, at or before each stated meeting of the directors, or at such time as may be provided in the by-laws, as a contribution to the capital thereof, the sum fixed as dues for each and every share held by him, until each share shall, under the provisions of this act, reach the ultimate value thereof—provided that no funds shall be taken from one series to mature any other series—or the by-laws of the association may authorize the board of directors to allow and pay interest, at a rate not exceeding eight per cent. per annum, on such installments as are paid in advance. Whenever an unpledged share shall reach its maturity, all payments thereon shall cease, and the holder thereof shall be entitled to receive, and shall be paid out of the funds of the said corporation, the maturing value thereof; and from the date of such maturity to the date of such payment shall also be entitled to receive, and shall be paid, interest at rate not exceeding eight per cent. per annum, on the sums so due and payable: *Provided, however*, that at no time shall more than one-half of the funds in the treasury be applicable to the payment of such matured shares without the consent of the directors; *and provided further*, that the directors of said corporation may, at their discretion, under rules made by them, retire the unpledged full-paid shares or prepaid shares at any time, and may in like manner retire installment shares at any time after the expiration of three years from the date of the issue thereof, by enforcing the withdrawal of the same; *and provided further*, that the retired shareholders shall be entitled to receive, and shall be paid the full value of their shares at the time, less all fines and their proportionate part of any loss. The particular shares to be so involuntarily retired shall be determined under such regulations as the directors may prescribe. Borrowing shareholders, for each share borrowed upon, shall, in addition to the dues aforesaid, pay the stated periodical payment of interest, and in associations in which the premium is paid in installments, the periodical payment of premium agreed upon until such shares shall reach the ultimate value thereof, when said shares and said loan shall be declared canceled and satisfied. An association may, in its by-laws, provide that the holders of free or unborrowed shares shall not receive any more than the face-value of their shares, less the average premium paid by the borrowers of the association up to date. (Laws 1895, p. 105—t.)

SEC. 1370. Withdrawal of shares.—Any shareholder, or the legal representative of any deceased shareholder, wishing to withdraw from the said corporation, shall, subject to the provisions of the by-laws, and his certificate of stock and the limitations hereinafter mentioned, have power to do so, upon giving one month's written notice of his intention so to do, delivered to the association at or before a stated meeting of the directors, or at such other time as the by-laws may provide. If given before a stated meeting, the time of such notice shall not be deemed to have commenced to run until the

(t) Borrowing stockholder not entitled to have his stock payments deducted from his debt to the association. 62 A. 277.

first stated meeting thereafter. The member so withdrawing, or, if deceased, his legal representative, shall, if his stock be withdrawable according to the terms of the contract, be entitled to receive, on demand, the amount actually withdrawable at the time of making application for withdrawal, according to the by-laws of the corporation and the provisions of the certificate of stock. At no time, however, shall more than one-half of the receipts of the corporation for any fiscal month, and, when the corporation is indebted on matured shares of an earlier series, not more than one-third of said receipts, be applicable to the demands of the withdrawing shareholders, or of shareholders whose stock has been forfeited in the manner hereinafter provided, without the consent of the directors; and when the demands of withdrawing shareholders exceed the moneys applicable to their payment, they shall be paid in the order in which their notice of withdrawal shall have been filed with the association. No shareholder shall be entitled to withdraw whose stock is pledged as security for a loan from the association, or whose stock is subject to any other lien or charge in favor of the association. (Laws 1895, p. 105—u.)

SEC. 1371. Forfeiture and fines.—In case any member not having a loan from the association shall fail to pay dues or fines for three months, then the shares of such member may, at the option of the board, be forfeited by paying back to or crediting such member with the same amount as he would be entitled to if he had voluntarily withdrawn less all fines and charges due. Should a member fail entirely in his payment for twelve months, then his share shall *ipso facto* be canceled, and he shall be credited with the same amount as if he had voluntarily withdrawn, less all fines and charges to date, and shall at once cease to be a member of the association. The amount so placed to his credit shall be paid to him out of the funds hereinbefore made available for that purpose, but shall not bear interest. The by-laws may provide for fines to be paid in case of default in payment of monthly dues and premiums. All payments made by said corporation for any purpose whatsoever shall be by order, check or draft, signed by the president and secretary. The name of the payee, the amount paid and the purpose for which said payment shall be made, together with the date of such payment, shall be entered on the said order, check or draft. (Laws 1895, p. 105.)

SEC. 1372. May borrow money.—All such corporations heretofore and hereafter organized in this state shall have the power, if provided in its by-laws, to borrow money for temporary purposes, not inconsistent with the objects of their organization; but no loan for such purpose shall have a longer duration than two years, nor shall such indebtedness exceed at any one time the aggregate amount of the income from dues and interest for six months. (Laws 1895, p. 105—v.)

SEC. 1373. Dividends.—The board of directors of any association formed under the provisions of this or any previous act may from time to time declare dividends from the earnings of the association; to be paid or credited in such manner as may be provided in the by-laws, but no dividend shall be declared except from the earnings of

(u) Member withdrawing cannot recover from association value of his stock, when. 61 A. 218; 57 A. 384.

(v) Association has no power to borrow money to loan to its members or to others. 68 A. 630.

the association; and if the said board of directors shall declare, credit or pay any dividend when the company is insolvent, they shall be jointly and severally liable to the extent of the dividend so declared, credited or paid, for all the debts of the association then existing, or that shall be thereafter contracted while they shall respectively continue in office: *Provided*, that any of the board of directors who shall object to the declaring of such dividend, or to the payment or crediting of the same, and who shall, at any time before the time fixed for the payment thereof, file a certificate of his objection, in writing, with the secretary of the company, and with the state treasurer, shall be exempt from such liability. But no director who shall be present at any meeting when such dividend is declared shall be exempt from such liability, unless he shall then and there object to the declaration, credit or payment of such dividend, and shall also procure his objection to be noted in the book of minutes of such association. (Laws 1895, p. 105.)

Sec. 1374. Liability of directors and officers.—Any officer, director, trustee, attorney, agent or servant of any association heretofore or hereafter to be incorporated, who shall use or dispose of any part of the moneys, property, assets or funds of such association, or assign, transfer, cancel, deliver up or acknowledge satisfaction of any bond, mortgage or other written instrument belonging to such association, unless duly authorized, or otherwise than in the regular and legitimate business of the corporation, or who shall be guilty of any fraud in the performance of his duties, shall be liable civilly to the corporation, and also to any other party injured, to the extent of the damage thereby caused, and shall also be deemed guilty of a misdemeanor. (Laws 1895, p. 105.)

Sec. 1375. May reorganize.—Any mutual building, loan and savings association hereinbefore organized under the laws of this state shall have power to provide for the transaction of future business under the provisions of this article, by calling a meeting of its stockholders for that purpose; notice of such meeting shall be given in the manner provided in its by-laws for special or annual meetings of stockholders. When so assembled, the stockholders shall have the power, by a majority vote of the stockholders present, to change, alter or repeal their present constitution and by-laws, and to adopt such new constitution and by-laws as they may deem needful for their future government, provided they do not conflict with the laws or constitution of this state. (Laws 1895, p. 105.)

Sec. 1376. Consolidation.—Any two or more corporations may unite and become incorporated in one body, with or without any dissolution or division of the funds of such corporations, or any or either of them, or any such corporation may transfer its engagements, funds and property to any other such corporation upon such terms as may be agreed upon by three-fourths of the members of each of such bodies present at the meeting of the members convened for that purpose, by notice stating the object of the meeting, sent through the postoffice to every member, and by a general notice, appearing daily at least one week, or weekly at least two weeks, in some newspaper published at the place of the principal business of the corporation; but no such transfer shall prejudice any right of any creditor of any such corporation to have payment of his debt out of the assets and property thereof, nor shall any creditor be thereby deprived of or prejudiced in any right of action then existing against the officers or

directors of said corporation for any neglect or misconduct. (Laws 1895, p. 105.)

SEC. 1377. When member not allowed to vote.—No member of any corporation who has borrowed money from the same shall be allowed to vote on any question affecting the claim of such corporation against himself. (R. S. 1889, § 2818.)

SEC. 1378. Power to extend time of corporate existence. Every such corporation may extend the time of its duration so as to make the entire period of its corporate existence not to exceed fifty years, by a vote of three-fourths of its stockholders, at any meeting called for that purpose—notice of such meeting having been first given as provided in sections 962 and 963 of chapter 12 of the Revised Statutes of 1899 of the state of Missouri—and by paying into the state treasury a fee of five dollars for a certificate of such extension. (R. S. 1889, § 2820.)

SEC. 1379. Foreign associations.—Foreign building and loan associations doing business in this state shall conduct their business in this state in accordance with the laws of the state governing domestic associations, and no such association shall do any business in this state until it shall procure from the state treasurer a certificate of authority to do so. To procure such authority such association shall comply with the following provisions:

First—It shall deposit with the state treasurer one hundred thousand dollars, either in cash or bonds of the United States or of the state of Missouri, or of any county or municipal corporation in the state of Missouri, satisfactory to the state treasurer.

Second—It shall file with the treasurer a certified copy of its charter, constitution and by-laws, and other rules and regulations showing its manner of conducting business, together with a statement such as is required semi-annually from all associations.

Third—It shall also file with the said state treasurer a written instrument, duly executed, agreeing that a summons may issue against it from any county or city in this state, directed to the sheriff of the county or city in which the office of the state treasurer is situated, commanding him to serve the same by certified copy personally upon the said state treasurer, or by leaving a copy thereof at his office. The said state treasurer shall, however, mail a copy of any papers served upon him, postage prepaid, to the home office of such association. (Laws 1895, p. 105.)

SEC. 1380. Certificate to be issued.—Whenever such association has complied with the provisions of this article, and the state treasurer is satisfied that such association is doing business according to the laws of this state, and is in sound financial condition, he shall issue his certificate of authority to such association to do business in this state. Annually thereafter, in the month of January, upon the filing of the semi-annual statement herein provided for, if the state treasurer shall be satisfied as aforesaid, he shall issue a renewal of such certificate of authority. (Laws 1895, p. 105.)

SEC. 1381. Associations may change securities and collect interest.—Such foreign associations may collect and use the interest on any securities so deposited, so long as it fulfills its obligations and complies with the provisions of this article. It may also exchange them for other securities of equal value and satisfactory to the secretary of state. (Laws 1895, p. 105.)

SEC. 1382. Securities liable for claims.—The deposit made with the state treasurer shall be held as security for all claims of residents of this state against said association, and shall be liable for all judgments or decrees thereon, and subjected to the payment of the same, in the same manner as the property of other non-residents. Should any association cease to do business in this state, the state treasurer may release securities in his discretion, after one year's notice of the fact, retaining sufficient to satisfy all outstanding liabilities. (Laws 1895, p. 105.)

SEC. 1383. May cancel authority of foreign associations.—Should the state treasurer find, upon examination, that any foreign association does not conduct its business in accordance with the law, or that the affairs of any such association are in an unsound condition, or if such association refuses to permit examination to be made, he may cancel the authority of such association to do business in this state, and cause a notice thereof to be mailed to the home office of the association, and to be published in at least one newspaper published in Jefferson City. After the publication of such notice, it shall be unlawful for any agent of said association to receive any further stock deposits from members residing in this state, except payments on stock on which a loan has been taken. (Laws 1895, p. 105.)

SEC. 1384. Fees paid by foreign associations.—Foreign building and loan associations shall pay to the state treasurer the following fees, which shall be paid into the treasury, to the credit of the building and loan association fund in the office of said state treasurer, to wit: For filing each application for admission to do business in this state, one hundred dollars; for each certificate of authority and annual renewal of same, fifty dollars. Said foreign associations shall pay to the said treasurer for filing each semi-annual statement as follows: If the assets of the association, as shown by the statement filed, amount to \$50,000 or less, \$3.00; if more than \$50,000 and less than \$100,000, \$5.00; if more than \$100,000 and less than \$250,000, \$10.00; if more than \$250,000, and less than \$500,000, \$20.00; if more than \$500,000 and less than \$1,000,000, \$30.00, and if more than \$1,000,000, \$50.00; for each copy of a paper filed in his office, twenty-five cents per folio; for affixing the seal of office and certifying any paper, one dollar. (Laws 1895, p. 105.)

SEC. 1385. Penalties against associations.—It shall be unlawful for any foreign building and loan association to do business in this state without having first complied with the provisions of this article, and any such association violating any of the provisions of this article, or failing to comply with any of its provisions, shall be fined not less than fifty nor more than one thousand dollars, to be recovered by an action in the name of the state, and on collection paid into the state treasury, to the credit of the building and loan association fund in the office of the said state treasurer: *Provided*, that building, loan and savings associations organized in other states having heretofore transacted business in this state, which shall not have complied with the provisions of this article, shall have the right to close up their business and fulfill their contracts heretofore entered into with citizens of this state, through their duly authorized agents, without being subject to the penalties prescribed by this act. (Laws 1895, p. 105.)

SEC. 1386. Stock of association liable to sale on execution.—The stock in any building and loan company or association shall be liable to sale on execution issued from a court of record by the sheriff, and upon such sale, it shall be the duty of the proper officer of said corporation or association to transfer and assign the same to the purchaser on its stockbook and issue certificates to the purchaser, reciting the fact of such sale, and thereupon the purchaser shall be substituted to all the rights, duties and privileges that the original owner had before the sale. (Laws 1895, p. 105.)

SEC. 1387. Bureau of building and loan supervision created—appointment of supervisor—term, salary, etc.—There is hereby created a bureau of building and loan supervision. The chief officer of said bureau shall be designated as the supervisor of building and loan associations. He shall be a citizen of this state and have knowledge and experience of building and loan business, and be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for a term of four years; but the governor shall have the power to suspend the supervisor from office whenever, in his opinion, the public interest may require it, or, with the advice and consent of the senate, to remove him from office. If a vacancy shall at any time occur, the same shall be filled by the governor by appointment for the unexpired term, subject to confirmation of the senate, if in session; if not, then at its next session. The supervisor shall receive a salary of two thousand dollars per annum and necessary traveling expenses. He may appoint such clerical help as may be necessary to properly attend to the duties of his office, at a cost not to exceed fifteen hundred dollars per annum, and may from time to time appoint such examiners as may be necessary to carry out the provisions of this act. Before entering upon his duties the supervisor shall give bond to the state of Missouri in the sum of ten thousand dollars, to be approved by the governor and attorney-general, and shall be filed in the office of the secretary of state. (Laws 1897, p. 91.)

SEC. 1388. Semi-annual reports of associations to be published—additional reports—penalties.—Every such corporation shall semi-annually, in the months of March and September, publish in one or more newspapers of general circulation in the county where the principal office of such corporation is located, a statement, verified by the oath of its president and secretary in such form as the supervisor may prescribe, and the said report shall be made upon blanks prepared by the supervisor and furnished by him to such association. The first report to be made under this act shall be made in the month of March, 1897, and every six months thereafter. In addition to the semi-annual reports hereinabove provided, each association shall, when requested by the supervisor, answer in writing, under oath, by its president and secretary, such questions as may be propounded by the supervisor, relating in any way to the business of such association. The state supervisor shall cause said report to be published in a newspaper published in the county, town or city wherein is located the principal office of such association, the cost of such publication to be paid by such association. Such report shall be verified by the oath or affirmation of the president and secretary of such association, and any willful swearing to any statement or statements which are untrue with regard to such reports shall be

deemed perjury, and shall subject the offender to prosecution and punishment as prescribed by law for that offense. Every such report shall be made within twenty days after the day to which it relates, and shall be accompanied by twenty cents for each one thousand dollars of assets shown thereby, which moneys shall be paid into the state treasury, to the credit of a fund to be known as the "building and loan supervision fund." The secretary of each association submitting such report shall deposit in the postoffice and prepay the postage thereon, correct copies of such semi-annual report properly addressed to each shareholder as his address may appear on the books of the association. Any secretary or president of any such association who shall willfully neglect or refuse to file such statement within the period hereinabove prescribed, shall be subject to a fine of not less than twenty dollars nor more than two hundred dollars for each neglect or refusal to furnish such statement, said fine shall be recovered by indictment against such secretary or president, and when collected shall be paid into the state treasury and credited to the building and loan supervision fund. (Laws 1897, p. 91.)

SEC. 1389. Annual examinations—duties of supervisor and assistants — expenses—examination, how made. — It shall be the duty of the supervisor, in person or by one or more persons by him appointed for that purpose, who are not officers or agents of or in any manner interested in any building and loan association, to make a full and careful examination of the affairs of any such association, whether heretofore or hereafter organized, in his discretion, not oftener than once in each year, and make his report thereon as herein provided. The officer making such examination shall have power to administer oaths, to take all testimony by him deemed necessary and proper, and compel the attendance of witnesses and the production of books and papers, and by like process and in like manner as is now provided by law to procure the attendance of witnesses and production of books and papers, in actions at law in the courts of record in this state. In every such examination, inquiry shall be made as to the nature and resources of the corporation generally, the mode of conducting and managing its affairs, the action of its directors, the investment of its funds, the security afforded its members and those by whom its engagements are held, and whether the requirements of its charter and the law have been complied with in the administration of its affairs. The supervisor shall, as soon as practicable after such examination, forward a report of the result of such examination, together with such suggestions as to him may seem proper, to the president of such association. The refusal of any such corporation to permit the examination of its affairs as required by this act shall be a sufficient cause for the institution of proceedings to wind up its affairs, as hereinafter provided. The expenses of such examination shall be paid out of the building and loan supervision fund, but the amount to be charged therefor shall not exceed the sum of five dollars per day for the time actually expended in making the same, and the actual and necessary expenses incident thereto. (Laws 1897, p. 91.)

SEC. 1390. Examiner's bond—oath—penalty. — Every examiner of building and loan associations appointed by the supervisor under the provisions of this article shall, before entering upon the duties of his appointment, give bond to the state of Missouri in the

sum of \$5,000, to be approved by the governor and filed in the office of secretary of state, conditioned that he will faithfully perform the duties of his office. The supervisor and all examiners appointed by him shall take and file in the office of the secretary of state an oath to support the constitution of the state, to faithfully demean himself in office, to make fair and impartial examinations; that he will not knowingly make an untrue report regarding any association examined by him, and that he will not accept any pay, directly or indirectly, for the discharge of any act in the line of his duty other than the remuneration allowed him by law. Any such examiner who violates his oath of office shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not exceeding three years. (New section.)

SEC. 1391. Supervisor to make annual report to governor.—The said supervisor shall, annually, on or before the first day of January in each year, report to the governor the financial condition of all associations doing business in this state. No association organized after the taking effect of this article shall be permitted to do business outside its home and immediately adjoining counties until it shall have assets equal to liabilities, undoubtedly good, of at least one hundred thousand dollars based on dues paid in. (Laws 1897, p. 91.)

SEC. 1392. Duties and powers of supervisor when corporations are violating law.—If it shall appear to the said supervisor from any report of any such association, whether heretofore or hereafter organized, or from any examination made by him, or by the person or persons appointed by him to make such examination, or from any knowledge or information in his possession, from whatever source obtained, that any such association has committed a violation of its charter or of law, or that said association is conducting its business in an unsafe and unauthorized manner, or that the assets of any such association are insufficient to justify the continuance of business by such association, he shall communicate the fact to the officers or directors of such association. Such officers or directors shall be allowed sixty days within which to make the assets sufficient or to correct any illegal practices; and in case such assets are not made sufficient or the illegal practices corrected within the time herein provided, or whenever it shall appear to the said supervisor that it is unsafe or inexpedient for any such association to continue to transact business, said supervisor shall institute proceedings in the circuit court in the city or county in which such association has, or had, its principal office, to enjoin or restrain such association from the further prosecution of its business, either temporarily or perpetually, or for such injunction and the dissolution of such association and the settling and winding up of its affairs, or for any and all of said remedies combined, as the supervisor may deem necessary. (Laws 1897, p. 91.)

SEC. 1393. Duty of attorney-general to conduct proceedings.—Such proceedings shall be conducted by the attorney-general of the state, and in the name of the state of Missouri as plaintiff, at the relation of said supervisor. The jurisdiction of circuit court, and the processes, pleading and proceedings had in the cases instituted under this act, shall be the same as are now provided by law for the winding up and dissolution of insurance companies, so far as

such provisions of law are applicable. The actual expenses of the attorney-general shall be paid out of the "building and loan supervision fund" in carrying out the provisions of this section. (Laws 1897, p. 91.)

ARTICLE XI.

BENEVOLENT, RELIGIOUS, SCIENTIFIC, FRATERNAL-BENEFICIAL, EDUCATIONAL AND MISCELLANEOUS ASSOCIATIONS.

SECTION

- 1394. Who may be incorporated.
- 1395. How incorporated.
- 1396. May have benefit of foregoing section, how.
- 1397. What associations may incorporate.
- 1398. May amend charter, how.
- 1399. Dues, how collected.
- 1400. May be formed to execute trusts.
- 1401. What associations not to incorporate under this article—company formed to erect building for use of society, may.
- 1402. Shall keep a record.
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- 1404. This section may be incorporated in charter, when—purpose and effect.
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- 1408. Fraternal beneficiary association, what is—government of—benefit fund—benefits to be paid to whom.
- 1409. Associations already formed to comply.
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SECTION

- 1411. Fraternal beneficiary associations to make report—contents.
- 1412. Service of process on fraternal beneficiary associations.
- 1413. *Id.*
- 1414. Permit to do business, how obtained.
- 1415. How incorporated.
- 1416. Associations shall not employ agents, when.
- 1417. Contract of beneficiary to pay dues, effect of.
- 1418. Benefits not liable to attachment, execution or other process, etc.
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- 1420. Penalty for false and fraudulent statements.
- 1421. Penalty for refusing or neglecting to make report—duty of superintendent of insurance—injunction, etc.
- 1422. Failing to comply with article, agent guilty of misdemeanor.
- 1423. Article not applying to Masons, Odd Fellows or similar orders.

SEC. 1394. Who may be incorporated.—Any number of persons not less than three, who shall have associated themselves by articles of agreement in writing, as a society, company, association or organization formed for benevolent, religious, scientific, fraternal-beneficial, or educational purposes, may be consolidated and united into a corporation. Such articles of agreement may be organic regulations, or a constitution, or other form of association, and any corporate name, not already assumed by another corporation, may be chosen as the title of the corporation: *Provided, always*, that the purpose and scope of the association be clearly and fully set forth. (R. S. 1889, § 2821—w.)

SEC. 1395. How incorporated.—The persons holding the offices respectively of president, secretary and treasurer of the association, or other chief officers, by whatever name they may be

(w) As to benevolent organization. 100 Mo. 36; 15 A. 597. Laws of a benevolent association form part of its contract with members. 26 A. 108. Pleasure club held to be created for educational purposes. 99 Mo. 552. Religious corporation defined. 27 A. 633. Effect of statutory limitation of beneficiaries. 59 A. 20. Validity of by-law for exemption from liabilities in cases of suicide. 59 A. 87; see 74 A. 490. Expulsion of member. 76 A. 387. Persons included in family of member of mutual benefit society. 67 A. 82. Insured in benefit society cannot divert the fund, how. 70 A. 161. Interest of beneficiary in certificate of a fraternal-beneficial association. 75 A. 402. As to deed to unincorporated company. 145 Mo. 622. Failure to pay dues as affecting one's "standing." 77 A. 47. Duration. 141 Mo. 29. Also see section 971, clause 1.

known, shall submit to the circuit court having jurisdiction in the city or county where such association is located, the articles of agreement, with the petition praying for a *pro forma* decree thereon. If the court shall be of the opinion that such articles of agreement and the purposes of the association come properly within the purview of this article, and are not inconsistent with the constitution or laws of the United States, or of this state, the court shall enter of record an order to that effect, a certified copy of which order shall, by the clerk, be indorsed upon or attached to said articles. But no such order shall be made until such petition shall have remained on file in the clerk's office of said court for at least three days after said petition shall have been presented to the court; and whenever the judge to whom such petition shall have been presented shall entertain any doubt as to the lawfulness or public usefulness of the proposed corporation, it shall be his duty to appoint some competent attorney, as a friend of the court, whose duty it shall be to examine said petition and show cause, if any there be, on some day to be fixed by the court, why the prayer of said petition should not be granted, and said attorney shall not be confined in his examination to said petition and articles of association, but may introduce such testimony as may be available and proper in order to fully disclose the true purposes of the association; and upon the hearing thereof, the court shall make such further order granting or dismissing said petition as to it may seem best, and upon the granting of such petition, the petitioners shall cause the articles of agreement, with the certificate aforesaid, to be recorded in the office of the recorder of deeds of the county in which the association is located, and then filed in the office of the secretary of state. The secretary of state shall issue to the petitioners a certified copy of such articles of agreement, with the several certificates thereon as filed in his office, which certified copy shall be the charter of incorporation; and thereupon the petitioners, their associates and successors, shall be created and be a body corporate and politic, by the corporate name designated in such charter, and such charter, together with this article, shall be received in all courts and places as legal evidence of the incorporation of such association. (R. S. 1889, § 2822—x.)

SEC. 1396. May have benefit of foregoing section, how.

Any such society, order or association heretofore or hereafter incorporated under the provisions of the laws of this state, may avail itself of the benefits of the foregoing section (1408) by amending its constitution or articles of association or reincorporating thereunder, or by an amended constitution or amended articles of association in the manner prescribed by this act. (R. S. 1889, § 2824, amended, Laws 1897, p. 132.)

SEC. 1397. What association may incorporate.—Any association formed for benevolent purposes, including any purely charitable society, hospital, asylum, house of refuge, reformatory and eleemosynary institution, fraternal-beneficial associations or any association whose object is to promote temperance or other virtue conducive to the well-being of the community, and, generally, any association formed to provide for some good in the order of benevolence, that is useful to the public, may become a body corporate and politic under this article; any association, congregation, society or church

organization formed for religious purposes, and any association formed to provide or maintain a cemetery; any school, college, institute, academy or other association formed for educational or scientific purposes, including therein any association formed specially to promote literature, history, science, information or skill among the learned professions, intellectual culture in any branch or department, or the establishing of a museum, library, art gallery, or the erection of a public monument, and in general, any association, society, company or organization which tends to the public advantage in relation to any or several of the objects above enumerated, and whatever is incident to such objects, may be created a body corporate and politic by complying with sections 1394 and 1395. (R. S. 1889, § 2825—y.)

SEC. 1398. May amend charter, how.—Any corporation formed under this article, or any existing corporation formed for benevolent, religious, scientific or educational purposes, may amend its charter in any matter germane to such charter, by submitting the proposed amendment to the circuit court, and in other respects proceeding as required in section 1395, for the original articles of agreement. And upon the issuing of a certified copy of such amendment by the secretary of state, such amendment shall become and be part of the charter of such corporation, with like effect and validity as though originally incorporated in such charter. Any such corporation may, without losing its personal identity, change its corporate name as an amendment to its charter. (R. S. 1889, § 2826—z.)

SEC. 1399. Dues, how collected.—The dues of members of corporations created under this article, as determined by their charters or by-laws, and any donations or subscriptions to which they may voluntarily obligate themselves, may be collected as any other debt; but over and above such dues or such subscriptions in no case shall any member be individually liable. (R. S. 1889, § 2827.)

SEC. 1400. May be formed to execute trusts.—Corporations may be formed, under the provisions of this article, to execute any trust the purpose whereof is within the purview of this article, and may receive and take, by deed or devise, in their corporate capacity, any property, real and personal, for the uses and purposes of such trust, and execute the trust so created. (R. S. 1889, § 2828.)

SEC. 1401. What associations not to incorporate under this article—company formed to erect building for use of society, may.—No association, society or company formed for manufacturing, agricultural or business purposes of any kind, or for pecuniary profit in any form, nor any corporation having a capital stock divided into shares, shall be incorporated under this article: *Provided*, that any company formed to erect a building for the exclusive use of a society within the purview of this article, without pecuniary consideration from such society, may become a body corporate under this article notwithstanding it has a capital stock in shares, and may receive subscriptions to such stock, to be paid in real estate, in money, property or services rendered to such company. (R. S. 1889, § 2829.)

SEC. 1402. Shall keep a record.—Every corporation formed under this article shall keep a fair record of all its proceedings, which

(y) 103 Mo. 477; 35 A. 123; 99 Mo. 552.

(z) Charter of educational society may be amended, how. 67 A. 329.

record shall be open, at all reasonable hours, to the inspection of all its members. (R. S. 1889, § 2830.)

SEC. 1403. Shall make by-laws, etc.—Every corporation created under this article shall make by-laws for its government and support and the management of its property, and therein provide, unless such provision is already made in its charter, for the admission of new members and how they shall be admitted, and prescribe their qualifications. Provision may also be made in such by-laws for the removal of officers for cause, and for the expulsion of members guilty of any offense which affects the interests or good government of the corporation, or is indictable by the laws of the land: *Provided, always*, that such by-laws shall be conformable to the charter of such corporation and shall not impair or limit any provision thereof or enlarge its scope, and shall not be contrary to the provisions of the constitution or laws of this state. (R. S. 1889, § 2831—zz.)

SEC. 1404. This section may be incorporated in charter, when—purpose and effect.—Any association or society formed for educational purposes as classified in section 1397, and as hereinafter limited, located in any city or town, may elect to provide in its articles of agreement, by incorporating this section in such articles, and in other respects conforming them thereto, that such corporation shall be, in all that relates to its property and all such it may acquire, a *quasi* trustee for the public, and as such may receive and take by deed or devise in its corporate capacity, any property, real and personal, in trust for the uses and purposes for which such corporation was formed, and execute any trust so created: *Provided*, that this section shall apply only, and it is hereby expressly limited, to such association or society as may be formed for the purpose of promoting historical studies or natural science, of establishing a museum, library or an art gallery, such educational and scientific purposes being chiefly for the advantage of the public where such corporation is located; *and provided furthermore*, that no corporation in whose charter is incorporated this section shall be permitted to amend such charter or to take advantage or avail itself of any change in the general law, in such way as to affect this section, and such charter shall be taken as a perpetual contract between such corporation and the public. It shall not be lawful for such corporation to create or contract any debt or pecuniary obligation in the nature of a debt; and any attempt to create or contract any such debt or obligation shall be, *ipso facto*, void. Nor shall any such corporation mortgage, or deed in trust, any of its property, or sell any such property, except by way of exchange for property of equal value, or for reinvestment. If any such corporation dissolve, its property shall be vested in the city or town in which such corporation is located, to be taken and held for the benefit of the people of such city or town, to the same purposes, uses and trusts as such property was held by such corporation. Membership in such corporation shall be open to the public, under such reasonable rules and regulations as the corporation may prescribe in its by-laws. Every such corporation shall create and maintain an endowment fund, to remain perpetually intact, that means may thereby be provided for the stability and support of the corporation; and to this end all moneys voluntarily contributed as

life membership, and by persons not residents of the locality where such corporation is located, who desire to be registered as members, and one-fourth of the current subscriptions from memberships, shall be set apart, until the moneys derived from these sources, together with such as lawfully come into such endowment fund from other sources, shall amount in the aggregate to at least two hundred thousand dollars. Such endowment fund may be invested in bonds of the United States, or of this state, or of the city or county in which the corporation is located, or in loans secured by mortgage on improved real estate situated in this state, but shall not be invested in securities or stock of any private trading or manufacturing corporation, or of any railroad company, or on any personal security, and the principal thereof shall not be encroached upon or expended by such corporation for any purpose. The museum, gallery and cabinets of such corporation shall be open to the public of this state, under such reasonable regulations as may from time to time be prescribed, and the contents of such museum, gallery or cabinets, or any portion thereof, shall not be loaned or taken out for exhibition or other purpose, on any pretext whatever. Any existing corporation formed for purposes within the purview of this section, and whose charter is in harmony therewith, shall be empowered to adopt the same as an amendment to such charter, under the provisions of section 1398. (R. S. 1889, § 2832—a.)

SEC. 1405. May acquire property, how—application of income.—It shall be lawful for any corporation which maybe organized under this article, or any existing corporation the purposes whereof are included in those mentioned in section 1397 hereof, to acquire, by subscription, purchase, devise or gift, shares of stock in any stock company which shall hereafter be incorporated under and pursuant to the laws of this state, for the sole purpose of erecting or purchasing a hall or building for the use and benefit of any one or more of such corporations, as mentioned in section 1397, and to hold such stock as personal property, and to enjoy the rights and privileges appertaining to such ownership: *Provided*, that the stock corporation erecting or purchasing such hall or building for the purpose aforesaid shall not permit the same to be occupied or used by any person or corporation for any purpose not included among those specified in section 1397, except so much of said building as may be necessarily rented for business purposes, in order to secure a sufficient revenue to provide for the expenses of the care and maintenance of said property, and for annual dividends not to exceed five per cent. upon the capital stock thereof, and every such stock corporation as hereinbefore mentioned shall, in the articles of association thereof, expressly declare its sole purposes to be such as above provided for; *and provided further*, that any corporation, the purposes whereof are included in section 1397 hereof, may acquire and hold in its own name such real estate and buildings as may be necessary for assembly, library, laboratory and other rooms requisite for its purposes, and may receive income from such other rooms as may be requisite to the completeness of such buildings; but such income shall be applied to the purpose of such corporation as defined in section 1397. (R. S. 1889, § 2833.)

SEC. 1406. Miscellaneous associations, how formed. Any association formed for the purpose of establishing a gymnasium,

or club house, or for promoting boating, field sports, or other rational amusements, or for any other purpose not excluded by section 1401, lawful in itself and not otherwise specially provided for, may also, by complying with sections 1394 and 1395, become a body corporate and politic, and under this article shall possess the rights and privileges and be subject to the limitations and requirements herein provided, so far as the same are applicable thereto. (R. S. 1889, § 2834—b.)

SEC. 1407. May be proceeded against by quo warranto, when.—The circuit court of the city or county in which any corporation organized under this article shall be located shall, upon proceedings by information in the nature of a *quo warranto*, instituted against such corporation or the officers thereof, by the attorney-general or circuit attorney, at the relation of any person desiring to prosecute the same, inquire into any alleged unlawful acts of or misuser or non-user of its franchise by such corporation, in like manner as is or may be provided by law for proceedings in case of the alleged usurpation of or intrusion into any public office by any person. If, in any such proceedings, judgment of forfeiture or dissolution be rendered against such corporation, it shall be lawful for the court to provide by such judgment for the vesting of the property of such corporation, upon such dissolution or forfeiture, in a receiver or receivers, to be appointed by the court, and in his or their successors in office. Such receiver or receivers, upon giving sufficient security, to be approved by the court, for the faithful performance of his or their duties, shall succeed to the title of such corporation in and to all its property and estate, and shall hold the same in trust for the creditors thereof, and other persons who may be entitled thereto, and shall receive, collect, sue for, recover, hold, manage and dispose of the same under and pursuant to the orders of such court, to be made from time to time in that behalf, according to right and justice. Any surplus remaining after paying the debts of such corporation shall, except as herein-after provided, be distributed among the persons who were members of such corporation at the time of such dissolution or forfeiture, or their legal representatives respectively, in equal shares, unless for good cause shown the court shall otherwise order: *Provided*, that if upon the dissolution or forfeiture of the franchises of any corporation formed under this article, it shall appear that any property vested in said corporation was held by it upon trust for any charitable purpose, or subject to the provisions of section 1404, such property or surplus shall not be distributed as above provided, but shall, by decree of such court, to be made without delay, after the debts of such corporation, if any, shall have been fully paid out of said property, be vested in one or more trustees for the charitable purpose for which such corporation held the same, or, in the case of corporations which have complied with the provisions of section 1404, shall be disposed of in the manner in said section provided for upon the dissolution of any such corporation. And it shall be the duty of the attorney-general, or circuit or prosecuting attorney of the proper circuit or county, whenever any credible person shall, in writing, make complaint to him upon affidavit of information and belief that any corporation formed under this article has, in any material matter, will-

(b) Insofar as this section undertakes to allow corporations to be created for other than benevolent, religious, scientific or educational purposes, it is void. 99 Mo. 252.

fully misused, or, for two years last past, has neglected to use its franchises, or has otherwise become liable to forfeit its charter, to inquire diligently into the grounds of such complaint, and upon reasonable cause shown therefor, to institute proceedings by information in the nature of a *quo warranto*, looking to a dissolution of such corporation and a forfeiture of its corporate rights. (R. S. 1889, § 2835—c.)

SEC. 1408. Fraternal beneficiary association, what is—government of—benefit fund—benefits, to be paid to whom.—A fraternal beneficiary association is hereby declared to be a corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in case of sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period in life at which payment of physical disability benefits on account of old age commences, shall not be under seventy (70) years, subject to their compliance with its constitution and laws. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed shall be derived from assessments or dues collected from its members. Payments of death benefits shall be to the families, heirs, blood relatives, affianced husband or affianced wife of, or to persons dependent upon the member. Such associations shall be governed by this act and shall be exempt from the provisions of the insurance laws of this state, and shall not pay a corporation or other tax, and no law hereafter passed shall apply to them unless they be expressly designated therein. And such fraternal beneficial association may create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution or by-laws. (Laws 1897, p. 132—d.)

SEC. 1409. Associations already formed to comply.—All such associations coming within the description as set forth in section 1408 of this article, organized under the laws of this or any other state, province or territory, and now doing business in this state, may continue such business: *Provided*, that they hereafter comply with the provisions of this act regulating annual reports and the designation of the superintendent of the insurance department as the person upon whom process may be served, as hereinafter provided. (Laws 1897, p. 132.)

SEC. 1410. Foreign associations.—Any such association coming within the description as set forth in section 1408 of this article, organized under the laws of any other state, province or territory and not now doing business in this state, shall be admitted to do business within this state when it shall have filed with the superintendent of the insurance department a duly certified copy of its charter and articles of association, and a copy of its constitution or laws, certified

(c) How private charitable corporations should be proceeded against for misappropriation of funds. 100 Mo. 451; 37 A. 496.

(d) 100 Mo. 36; 109 Mo. 560; 115 Mo. 588; 126 Mo. 630; 70 A. 161; 69 A. 487; 67 A. 83; 64 A. 212; 63 A. 277; 61 A. 97; 59 A. 20, 87, 90; 56 A. 101; 55 A. 123; 54 A. 468; 50 A. 45; 41 A. 106; 40 A. 606; 38 A. 543; 36 A. 184; 35 A. 112.

to by its secretary or corresponding officer, together with an appointment of the superintendent of the insurance department of this state as a person upon whom process shall be served as hereinafter provided; *and provided*, that such association shall be shown to be authorized to do business in the state, province or territory in which it is incorporated or organized, in case the laws of such state, province or territory shall provide for such authorization; and in case the laws of such state, province or territory do not provide for any formal authorization to do business on the part of any such association, then such association shall be shown to be conducting its business within the provisions of this act, for which purpose the superintendent of the insurance department of this state may personally, or by some person to be designated by him, examine into the condition, affairs, character and business methods, accounts, books and investments of such association at its home office, which examination shall be at the expense of such association, and shall be made within thirty days after demand therefor, and the expense of such examination shall be limited to \$50. (Laws 1897, p. 132.)

SEC. 1411. Fraternal beneficiary associations to make report — contents. — Every such association doing business in this state shall, on or before the first day of March of each year, make and file with the superintendent of the insurance department of this state a report of its affairs and operations during the year ending on the 31st day of December immediately preceding, which annual report shall be in lieu of all other reports required by any other law. Such reports shall be upon blank forms to be provided by the superintendent of the insurance department, or may be printed in pamphlet form, and shall be verified under oath by the duly authorized officers of such association, and shall be published, or the substance thereof, in the annual report of the superintendent of the insurance department under a separate part entitled "Fraternal beneficiary associations," and shall contain answers to the following questions:

1. Number of certificates issued during the year, or members admitted.
2. Amount of indemnity effected thereby.
3. Number of losses or benefit liabilities incurred.
4. Number of losses or benefit liabilities paid.
5. The amount received from each assessment for the year.
6. Total amount paid members, beneficiaries, legal representatives or heirs.
7. Number and kind of claims for which assessments have been made.
8. Number and kind of claims compromised or resisted, and brief statement of reasons.
9. Does association charge annual or other periodical dues or admission fees?
10. How much on each one thousand dollars, annually or per capita, as the case may be.
11. Total amount received, from what source, and the disposition thereof.
12. Total amount of salaries paid to officers.
13. Does association guarantee in its certificates fixed amounts to be paid, regardless of amount realized from assessments, dues, admission fees and donations?

14. If so, state amount guaranteed, and the security of such guarantee.

15. Has the association a reserve or emergency fund?

16. If so, how is it created, and for what purpose, the amount thereof, and how invested?

17. Has the association more than one class?

18. If so, how many, and the amount of indemnity in each?

19. Number of members in each class.

20. If voluntary, so state and give date of organization.

21. If organized under the laws of this state, under what law and at what time; giving chapter and year and date of the passage of the act.

22. If organized under the laws of any other state, province or territory, state such fact and the date of organization, giving chapter and year and date of passage of the act.

23. Number of certificates of beneficiary membership lapsed during the year.

24. Number in force at beginning and end of year; if more than one class, number in each class.

25. Names and addresses of its president, secretary and treasurer, or corresponding officers.

The superintendent of the insurance department is authorized and empowered to address any additional inquiries to any such association in relation to the matters embraced in such report, and such officers of such association as the superintendent of the insurance department may require, shall promptly reply in writing, under oath, to all such inquiries. (Laws 1897, p. 132.)

Sec. 1412. Service of process on fraternal beneficiary associations.—Each such association now doing or hereafter admitted to do business within this state and not having its principal office in this state, and not having organized under the laws of this state, shall appoint, in writing, the superintendent of the insurance department and his successors in office to be its true and lawful attorney, and upon whom all lawful process in any action or proceeding against it may be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such certificate, certified by said superintendent of the insurance department, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said superintendent of the insurance department, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall, within two days after such service, forward in the same manner a copy of the process served on him to such officer. The plaintiff in such process so served shall pay the superintendent of the insurance department at the time of such service a fee of \$3.00, which shall be recovered by him as part of the taxable costs, if he prevails in the suit. The superintendent of the insurance department shall keep a record of all

process served upon him, which record shall show the day and hour when such service was made and by whom made. (Laws 1897, p. 132.)

SEC. 1413. *Id.*—In case of a vacancy in the office of the superintendent of the insurance department, or in case of the absence, inability or suspension of such superintendent, the service upon a deputy, appointed under the provisions of section 7837 of the Revised Statutes of Missouri of 1899, or the exercise of such deputy of the powers and duties of such superintendent, shall be valid and sufficient for the purposes of this act. (Laws 1897, p. 132.)

SEC. 1414. Permit to do business, how obtained.—The superintendent of the insurance department of this state shall, upon the application of any association having the right to do business within this state, as provided by this act, issue to such association a permit, in writing, authorizing such association to do business within this state, for which certificate and all proceedings in connection therewith such association shall pay to said superintendent of the insurance department the fee of \$5.00. (Laws 1897, p. 132.)

SEC. 1415. How incorporated.—Fraternal beneficial associations shall be incorporated in manner as now is or may be hereafter provided by law. (Laws 1897, p. 132.)

SEC. 1416. Associations shall not employ agents, when. Such association shall not employ paid agents in soliciting or procuring members except in the organization or building up of subordinate bodies or granting members inducements to procure new members. (Laws 1897, p. 132.)

SEC. 1417. Contract of beneficiary to pay dues, effect of. No contract between a member and his beneficiary, that the beneficiary, or any person for him, shall pay such member's assessments and dues, or either of them, shall give the beneficiary a vested right in the benefit certificate, or in the benefit, or deprive the member of the right to change the name of the beneficiary, or revoke the certificate, if any, issued by the association: *Provided*, that such change or revocation be done by written or printed notice to the association in the manner and form provided for by its by-laws. (Laws 1897, p. 132.)

SEC. 1418. Benefits not liable to attachment, execution or other process, etc.—The money or other benefit, charity, relief or aid already paid or to be paid, provided or rendered by any association authorized to do business under this act shall not be liable to attachment or execution by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by the operation of law, to pay any debt or liability of a certificate holder or of any beneficiary named in a certificate, or any person who may have any right thereunder. (Laws 1897, p. 132.)

SEC. 1419. May provide for meeting of legislative body in any other state—votes of subordinate bodies in other states.—Any such association organized under the laws of this state may provide for the meeting of its legislative or governing body in any other state, province or territory wherein such associations shall have subordinate bodies, and all business transacted at such meetings shall be valid in all respects, as if such meetings were held within this state, and where the laws of any such association provide for the election of its officers by votes to be cast in its subordinate bodies, the votes so cast in its subordinate bodies in any other state,

province or territory shall be valid as if cast within this state. (Laws 1897, p. 132.)

SEC. 1420. Penalty for false and fraudulent statements.

Any person, officer, member or examining physician who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining any money or benefit in any association transacting business under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall willfully make any false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall willfully make any false statement in any verified report or declaration, under oath required or authorized by this act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury. (Laws 1897, p. 132.)

SEC. 1421. Penalty for refusing or neglecting to make report—duty of superintendent of insurance—injunction, etc.—

Any such association refusing or neglecting to make the report as provided in this act, or to appoint the superintendent of the insurance department as its true and lawful attorney for the purpose of this act, shall be excluded from doing business within this state. Said superintendent of the insurance department must, within sixty days after failure to make such report, or in any case any such association shall exceed its powers, or shall conduct its business fraudulently, or shall fail to comply with any of the provisions of this act, give notice, in writing, to the attorney-general, who shall immediately commence an action against any such association to enjoin the same from carrying on any business. And no injunction against any such association shall be granted by any court, except on application by the attorney-general at the request of the superintendent of the insurance department. No association so enjoined shall have authority to continue business until such report shall be made, or overt act or violations complained of shall have been corrected, nor until the costs of such action be paid by it: *Provided*, the court shall find that such association was in default as charged. Whereupon the superintendent of the insurance department shall reinstate such association, and not until then shall such association be allowed to again do business in this state. Any officer, agent or person acting for any association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not less than \$25 nor more than \$200, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court. (Laws 1897, p. 132.)

SEC. 1422. Failing to comply with article, agent guilty of misdemeanor.—Any person who shall act within this state as an officer, agent or otherwise for any association which shall have failed, neglected or refused to comply with, or shall have violated any of the

provisions of this act, or shall have failed or neglected to procure from the superintendent of the insurance department a proper certificate of authority to transact business as provided for by this act, shall be subject to the penalty provided in the last preceding section for the misdemeanor therein specified. (Laws 1897, p. 132.)

SEC. 1423. Article not applying to Masons, Odd Fellows or similar orders.—This act shall not apply to or affect grand or subordinate lodges of Masons, Odd Fellows or similar orders paying only sick disability or funeral benefits, or any association not working on the lodge system which limits its certificate holders or membership to a particular class, or to the employes of a particular town or city, designated firm, business house or corporation. (Laws 1897, p. 132.)

ARTICLE XII.

TRUST COMPANIES.

SECTION

- 1424. Articles of agreement shall contain, what.
- 1425. *Id.* To be signed, recorded and filed in office of secretary of state.
- 1426. Certificate not to exceed fifty years—rights and privileges.
- 1427. Powers and purposes of.
- 1428. Remedy for non-payment of rent for safes.
- 1429. Amount of capital stock—directors, number of and how chosen.
- 1430. Powers—dividends not to be declared when insolvent.
- 1431. Directors to keep accounts—render statements.
- 1432. Executor, etc., and pledgee, not liable personally.

SECTION

- 1433. Executors, etc., and pledgor, to vote.
- 1434. Books to be open to inspection.
- 1435. Capital stock increased or diminished—business extended.
- 1436. Meeting of stockholders to increase or diminish capital, how called—vote necessary.
- 1437. Proceedings to increase capital stock.
- 1438. Powers of trust companies—securities deposited with superintendent of insurance.
- 1439. To do business, when.

SEC. 1424. Articles of agreement shall contain, what.
Any three or more persons who shall have associated themselves by articles of agreement, in writing, as provided by law, for any of the purposes included under section 1427 of this article, may be incorporated under any name or title designating such business. The articles of agreement shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this state for similar purposes, or an imitation of such name; second, the name of the city or town and county in which the corporation is to be located; third, the amount of the capital stock of the corporation authorized by the articles of agreement, the number of shares into which it is divided, the amount of capital stock actually subscribed in good faith at the time of the filing of such articles, which amount of capital stock actually subscribed shall be at least one-fourth of the capital stock authorized by the articles; and said articles shall further state that one-half of the capital so subscribed has been actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors or managers; fourth, the names and places of residence of the several shareholders, and the number of shares subscribed by each; fifth, the number of the board of directors or managers, and the names of those agreed upon for the first year; sixth, the number of years the corporation is to continue, which

in no case shall exceed fifty years; seventh, the purposes for which the association or company is formed. (R. S. 1889, § 2836.)

SEC. 1425. *Id.* To be signed, recorded and filed in office of secretary of state.—The articles of agreement shall be signed and acknowledged by the parties thereto, and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located; and a certified copy of such recorded instrument shall be filed in the office of the secretary of state. (R. S. 1889, § 2837.)

SEC. 1426. Certificate not to exceed fifty years—rights and privileges.—The secretary of state shall thereupon give a certificate setting forth that such corporation has been duly organized, and the amount of its authorized and subscribed capital; and such certificates shall be taken by all courts of this state as evidence of the corporate existence of such corporation. The persons so acknowledging such articles of association, and their associates and successors, shall, for the period not to exceed fifty years next succeeding the issuing of such certificate by the secretary of state, be a body corporate; and by such name they and their successors shall be entitled to have, possess and enjoy all the rights and privileges conferred by law upon corporations, subject to the provisions of this article. (R. S. 1889, § 2838.)

SEC. 1427. Powers and purposes of.—Corporations may be created under this article for any one or more of the following purposes: First, to receive money in trust, and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be agreed, not exceeding in either case the legal rate, and the payment to them or their order of deposits made by minors shall be binding on them; to receive upon deposit for safe keeping personal property of every description; to guarantee special deposits, and to own or control a safety vault and rent the boxes therein. Second, to accept and execute all such trusts and perform such duties of every description as may be committed to them by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to them by order, judgment or decree of any of the courts of record of this state or other state, or of the United States. Third, to take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all such legal and lawful trusts in regard to the same, upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by such order, judgment, decree, gift, grant, assignment, transfer, devise or bequest, and to execute as principal or surety, and to guarantee against loss any principal or surety upon any bond or bonds required by law to be given in any proceeding in law or equity in any of the courts of this state or other state, or of the United States. Fourth, to act as agent or attorney in fact for any person or corporation in the management and control of real or personal property and the sale or conveyance of the same, and for the investment of money, and to act for and represent corporations

or persons under power and letters of attorney, and as agents for persons and corporations for the purpose of issuing, registering, transferring or countersigning the certificates of stock, bonds or other evidences of debt of any corporation, association, municipality, state or public authority, on such terms as may be agreed upon. Fifth, to accept from and execute trusts for married women in respect to their separate property, whether real or personal, and act as agents for them in the management of such property, and generally to have and exercise such powers as are usually had and exercised by trust companies. Sixth, to act as executor under last will or as administrator of the estate of any deceased person, or as guardian or curator of any infant, insane person, idiot or habitual drunkard, or trustee for any convict in the penitentiary, under the appointment of any court of record having jurisdiction of the person or estate of such deceased person, infant, insane person, idiot, habitual drunkard or convict. Seventh, to guarantee the fidelity and diligent performance of their duty of persons or corporations holding places of public or private trust; to guarantee or become surety on any bond given by any person or corporation, and to reinsure or guarantee any person or corporation against loss or damage by reason of any risk assumed by insuring the fidelity or diligent performance of duty of any such person or corporation, or by guaranteeing or becoming surety on any bond; to guarantee the principal or interest, or both, of any securities of any kind, and to certify and guarantee titles to real estate. Eighth, to loan money upon real estate and collateral security, and execute and issue its notes and debentures payable at a future date, and to pledge its mortgages on real estate and other securities as security therefor, which notes and debentures may be issued to an amount not exceeding, in the aggregate, ten times the amount paid up on the capital stock of the company issuing the same, and shall in no case exceed the amount of first mortgages pledged to secure their payment. Ninth, to buy and sell all kinds of government, state, municipal and other bonds and all kinds of negotiable and non-negotiable paper, stocks and other investment securities. (R. S. 1889, § 2839, amended, Laws 1891, p. 99—e.)

SEC. 1428. Remedy for non-payment of rent for safes.

Any corporation which has been authorized, or may hereafter be authorized, to own or control a safety vault and rent the boxes therein, may, if the amount due for the use of any safe or box in the vault of such corporation shall not have been paid for two years, at the expiration thereof, cause to be sent to the person in whose name such safe or box stands on its books, a notice, in writing, in a securely closed post-

(e) 144 Mo. 562. Such company is proper surety on attachment bond. 75 A. 135. Trust companies: general deposits: banking business: interest on deposits. A trust company, under the laws of Missouri, cannot receive moneys by way of general deposits and pay them out on demand on the check of the depositor, in such a way as to thereby establish the relation of debtor and creditor between such company and the depositors. Such company cannot receive money in exchange for its credit, in the way a bank does, thereby establishing the relation of debtor and creditor. It can receive money on deposit by paying interest thereon, and such deposit may be payable on demand, or at such time as may be agreed upon, and on checks or written orders or otherwise as may be most convenient. But it has no authority to operate a general deposit account and receive money without paying interest thereon. No corporation organized under the laws of this state except a bank has authority to receive moneys on general deposit and pay them out on checks on demand. 144 Mo. 562.

paid registered letter, directed to such person at his postoffice address as recorded upon the books of the corporation, notifying such person that if the amount then due for the use of such safe or box is not paid within sixty days from the date of such notice, the corporation will then cause such safe or box to be opened, in the presence of its president, or vice-president, or secretary, or treasurer, and of a notary public not an officer or in the employ of the corporation, and the contents thereof, if any, to be sealed up by such notary public in a package, upon which such notary public shall distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the corporation, and the estimated value thereof; and the package so sealed and addressed, when marked for identification by such notary public, will be placed by such notary public in one of the general safes or boxes of the corporation, and retained by the corporation, subject to the payment of all rent that may be unpaid, and of all expenses incurred in opening the safe or box, and also of a reasonable compensation for the safe-keeping of the contents after their removal from the safe or box. (New section.)

SEC. 1429. Amount of capital stock—number of directors, how chosen.—The amount of capital stock actually subscribed of any corporation organized under this article shall not be less than one hundred thousand dollars, and the amount of capital authorized by such articles shall not be more than ten millions of dollars. The property or business of the corporation shall be controlled and managed by directors, not less than five nor more than twenty-five in number, who shall respectively be stockholders of such corporation, and a majority of whom shall be *bona fide* citizens of this state, to be elected by ballot by the shareholders of such corporation for one year, if the number of directors of such corporation does not exceed five, at such time and place as shall be directed by the by-laws of such corporation, of which time and place at least two weeks' notice shall be published in some newspaper published at least once a week in the city or county in which the corporation is located, and if there be no newspaper published in such county, then in any paper published in this state, which circulates in the locality where such corporation is located. Such election shall be made by such of the shareholders as shall attend in person or by proxy, in writing. In case the election shall not be made on the day named, the said corporation shall not thereby be dissolved, but an election may be had at any other time, agreeably to the by-laws of said corporation; and the persons so elected shall hold their office until others are elected and qualified. If the number of directors of such corporation, named in the articles of association, shall exceed five in number, they shall, as soon as may be after their organization, divide themselves by ballot into three classes of equal number as near as may be designated, the first, second and third class, of which the first class shall remain in office one year, the second class two years, and the third class three years; and at each annual election, conducted in the manner hereinbefore designated, directors shall be elected for the term of three years to fill the vacancies created by the retiring class. In case of death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election. (R. S. 1889, § 2840.)

SEC. 1430. Powers—dividends not to be declared when insolvent.—The directors of corporations created under this article shall have power of investing the moneys placed in their charge in

loans secured by real estate or other sufficient collateral security, in public bonds of the United States or of this state, or in the bonds or stocks of any incorporated city or county in this state. Such corporation shall own only such real estate as may be required for the transaction of their business, and such as they may acquire in the enforcement and collection of debts or liabilities due to them. Dividends of the profits of the corporation may be declared by the trustees or directors thereof every six months, or oftener, as the directors may elect; but no such dividends shall be made and paid to stockholders while such corporation is in an insolvent condition, nor shall any dividends be declared which would render such corporation insolvent; and if the directors of any such corporation shall knowingly declare and pay any dividends when the corporation is insolvent, or any dividend the payment of which would render it insolvent, they shall be jointly and severally liable for all debts of the corporation then existing, and for all that shall thereafter be contracted while they shall respectively continue in office: *Provided*, that if any of the directors shall object to the declaring of such dividends or to the payment of the same, and shall, at any time before the time fixed for the payment thereof, file a certificate of their objections, in writing, with the clerk of the corporation and with the circuit clerk of the county, they shall be exempt from the said liability. (R. S. 1889, § 2841.)

SEC. 1431. Directors to keep accounts—render statements.—The board of directors of the corporation shall keep correct accounts of their transactions, and have full statements of the condition of the affairs of such corporation made out and exhibited to the stockholders as often as once in each year, at least ten days before the day of election. The board of directors, whenever required so to do by the secretary of state, and within fifteen days after the date of the call made by him, shall also furnish a statement, the form of which shall contain such particulars as the secretary of state may prescribe, of the actual condition of such corporation at the close of business on the day designated, and which day shall be prior to such call—said statement to be filed in the office of the secretary of state. Said statement shall be certified under oath, by the president and secretary (or two principal officers) of such corporation, and verified by the affidavits of three of the directors or stockholders, to be appointed by the board for the purpose of making an examination of the affairs of the corporation, which will qualify them personally to make the sworn statement as provided below. The affidavits appended shall be in the following words:

State of Missouri, }
County of —, } ss.

We, —, president, and — secretary, of the —, do solemnly swear that the above statement is true to the best of our knowledge and belief.

—, President.

—, Secretary.

We, —, directors (stockholders) of the —, do solemnly swear that we have made thorough personal examination of the books, papers, property and affairs of said corporation, and that the above statement is true to the best of our knowledge and belief.

Directors (stockholders.)

Subscribed and sworn to before me this — day of —, nineteen hundred and —. Witness my hand and notarial seal, the date last aforesaid. (Commissioned and qualified for a term expiring —.)

(Seal)

—, Notary Public.

Such corporations organized under this law as are required, by reason of their deposit with the insurance commissioner, to report to that officer, and submit to examinations at his hand, shall, as full compliance with this act, be required only to file with the secretary of state a copy of their annual report made to the said superintendent of the insurance department. The statement required of trust companies by this section, omitting such schedules as may be required by the secretary of state, shall be published by such corporation at least once in one or more daily newspapers published in the city or county where it is located, if a daily newspaper is published therein, or in a weekly paper, if no daily paper is published in such place. Should any president, secretary, other principal officer or director refuse to make the statement so required of him or them, and within the time required, or willfully and corruptly make a false statement, he or they and each of them shall be deemed guilty of a misdemeanor, and, upon conviction thereof upon information, they shall be punished by a fine for each offense not exceeding five hundred dollars, or by imprisonment not less than one nor more than twelve months in the city or county jail, or by both such fine and imprisonment. It shall be the duty of the secretary of state, within sixty days from the date of every call, to report to the prosecuting attorneys of the counties in which such corporations may be located the names of all corporations that have failed to file in his office within the prescribed time the statement herein required, and it shall be the duty of each prosecuting attorney to whom such report is made immediately to institute proceedings for the enforcement of the penalties in this article provided, and as compensation for his services, he shall receive one-fourth of the amount of the penalty or penalties collected. (R. S. 1889, § 2842, amended, Laws 1893, p. 130; amended, Laws 1895, p. 123.)

SEC. 1432. Executor, etc., and pledgee not liable personally.—No person holding stock in the corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder in such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholder accordingly. And the estate and funds in the hands of such executors, administrators, guardians or trustees shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been if he had been living and competent to act and hold the same stock in his own name. (R. S. 1889, § 2843.)

SEC. 1433. Executor, etc., and pledgor to vote.—Every such executor, administrator, guardian or trustee shall represent the shares of stock in his hands at all meetings of the corporation, and may vote accordingly as a shareholder; and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a shareholder. (R. S. 1889, § 2844.)

SEC. 1434. Books to be open to inspection.—The books and all records of the proceedings of such corporation shall be kept open for inspection of all persons interested. (R. S. 1889, § 2845.)

SEC. 1435. Capital stock increased or diminished—business extended.—Any corporation which may hereafter be formed for any of the purposes contemplated by this article may increase or

diminish its capital stock by complying with the provisions of this article, in any amount within the limits of this article, and may also extend its business to any other purpose authorized by this article, subject to the provisions and liabilities thereof. (R. S. 1889, § 2846.)

SEC. 1436. Meeting of stockholders to increase or diminish capital, how called—vote necessary. — Whenever any corporation shall desire to call a meeting of its stockholders for the purpose of availing itself of the privileges and provisions of this article, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least sixty days, and to deposit a written or printed copy thereof in the postoffice, postage prepaid, addressed to each stockholder at his usual place of residence, at least sixty days previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be extended or changed. An affirmative vote of the persons holding the larger amount in value of all the shares of stock shall be necessary to increase or diminish the amount of its capital stock, or to extend or change its business as aforesaid, or to enable a corporation to avail itself of the provisions of this article. The notice provided for in this section shall be published at least once a week, and the first publication must be at least sixty days before the day of such meeting. (R. S. 1889, § 2847.)

SEC. 1437. Proceedings to increase capital, etc. — If, at any time and place specified in the notice provided for in the preceding section, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy; and if, on canvassing the vote, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or changing its business as aforesaid, or availing itself of the privilege and provisions of this article, a statement of the proceedings, showing a compliance with the provisions of this article, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of assets and liabilities of the corporation, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary; and such statement shall be acknowledged by the chairman and recorded as provided in section 1313; and a certified copy of such recorded instrument shall be filed in the office of the secretary of state, who shall thereupon issue a certificate that such corporation has complied with the law made and provided for the increase or decrease of capital stock as the case may be, and the amount to which such capital stock is increased or decreased; and such a certificate shall be taken in all courts of this state as evidence of such increase or decrease of stock; and thereupon the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid, and the corporation shall be entitled to the privileges and provisions and be subject to the liabilities of this article. (R. S. 1889, § 2848.)

SEC. 1438. Powers of trust companies—securities deposited with superintendent of insurance.—Any company now doing business in this state, or which may hereafter be organized under the provisions of this article to do business in this state, which shall make with the superintendent of the insurance department a deposit of two hundred thousand dollars, consisting of cash, treasury notes of the United States, or government, state, county, municipal or other bonds, or bonds, notes or debentures secured by first mortgages or deeds of trust or mortgages or deeds of trust on unencumbered real estate in the state of Missouri, worth at least double the amount loaned thereon, or such other first-class securities as the said superintendent may approve—said bonds or securities not to be received or held at a rate above par, but if their market value is less than par, they shall not be held above their actual market value—and which shall satisfy said superintendent of its solvency, and shall have received the certificate of said superintendent that such company has made said deposit and has satisfied him of its solvency—it being hereby made the duty of said superintendent to issue such certificate in accordance with the facts—shall be permitted to qualify as guardian, curator, executor administrator, assignee, receiver, trustee, by appointment of any court, or under will, or depositary of money in court, without giving bond as such, and become sole guarantor or surety in or upon any bond required to be given under the laws of this state, any other statute to the contrary notwithstanding, and as well to insure the fidelity of persons holding places of public or private trust; and whenever such company shall exhibit to the court, judge, clerk or other officer making such appointment, or whose duty it is to approve such bond, the certificate of the superintendent of the insurance department of the state of Missouri, that such company has complied with the provisions of this article with respect to said deposit and proof of solvency, the court or officer making such appointment, or whose duty it is to approve such bond, may appoint such company to such office or trust, and permit it to qualify as such without giving any bond, and permit such company to become sole, guarantor or surety upon any bond required to be given under the laws of this state, without requiring any other surety therefor. The fund so deposited with the superintendent of the insurance department shall be primarily liable for the obligations of such company as guardian, curator, executor, administrator, assignee, receiver, trustee by appointment of court or under will, depositary of money in court, guarantor or surety in or upon any bond required to be given under the laws of this state, or other fiduciary capacity under appointment of any court, and as well all bonds, contracts or guarantees of every kind and description, whereby the fidelity of persons holding places of public or private trust is insured or guaranteed, and shall not be liable for any other debt or obligation of the company until all trust liabilities as aforesaid of such company have been discharged; and all of sections 7962, 7965, 7966, 8015, 8016, 8018, 8019 and 8020 of the Revised Statutes of the state of Missouri of 1899, so far as the same are applicable and not inconsistent with the provisions of this chapter, shall apply to all companies doing business under this section. And in case the interest on any security deposited with the superintendent of the insurance department under this section shall not be paid at maturity, and shall remain unpaid for six months thereafter, it shall be his duty to require the company which deposited the same to remove them and de-

posit in their place other securities, equal in amount to those removed, upon which the interest has not been defaulted: *Provided*, that any person or association of persons, or any other corporation, organized under the laws of this state, doing the business specified in this section, shall enjoy the privileges conferred by this section by complying with the provisions thereof. And any corporation organized under the laws of any other state may do the business specified in this section by complying with the laws of this state relating to insurance other than life: *Provided, further*, that any company that complies with the provisions of this section shall not exercise any other of the powers enumerated in section 1427 of this article, except such as are mentioned in this section, unless such company shall have at the time of making said deposit a paid-up capital or surplus of at least fifty thousand dollars (\$50,000), in addition to said deposit of two hundred thousand dollars (\$200,000): *Provided, further*, that all provisions of the laws of this state affecting "insurance other than life," so far as the same relates to fees to be paid to the insurance department, agents, revoking certificate, companies with impaired capital stock and insolvent companies, shall so far as the same can be made applicable, apply to all companies doing business under this section. (Laws 1891, p. 99.)

SEC. 1439. To do business, when.—No company organized under this article shall engage in the business of insuring the fidelity of persons holding places of public or private trust until such company has complied with the provisions of this act and the sections of the insurance law cited therein. (Laws 1891, p. 99.)

ARTICLE XIII.

SAVINGS AND SAFE DEPOSIT INSTITUTIONS.

SECTION

- 1440. How many may incorporate—articles to contain, what.
- 1441. Articles signed by whom.
- 1442. Capital, amount of.
- 1443. Board of directors—how elected—term.
- 1444. Duty of board of directors—qualifications—officers.
- 1445. Purposes for which corporation may be created—investment of deposits.
- 1446. May purchase and sell certain real estate.
- 1447. Forbidden to deal in certain property.
- 1448. Director shall not borrow funds of association—failure to attend meetings.
- 1449. Regular meetings of board of directors.
- 1450. What may be received as deposits.
- 1451. Deposits by minors or female.
- 1452. Pass-books.
- 1453. Capital stock limited to what.
- 1454. Rate of interest allowed depositors.
- 1455. Dividends and guaranty fund.
- 1456. Excess of profits to be applied to arrears of dividends.

SECTION

- 1457. Indemnity fund.
- 1458. Net profits divided among certain depositors.
- 1459. No dividends declared until examination is made.
- 1460. Notices and rules.
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- 1462. Compensation of directors acting as officers.
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- 1464. Corporation to make report to secretary of state—contents.
- 1465. What report shall state.
- 1466. Report to be verified by three directors—directors to examine books.
- 1467. Secretary of state to report to legislature.
- 1468. Secretary of state to examine.
- 1469. Duty of secretary when corporation is doing unsafe or unauthorized business—proceedings.
- 1470. What corporations may accept provisions of this article.
- 1471. Unlawful advertising.
- 1472. How corporation may dissolve.

SEC. 1440. How many may incorporate—articles to contain, what.—Any five or more persons who shall have associated themselves by articles of agreement, in writing, as provided by law,

for the purposes included under section 1445 of this article, may be incorporated under any name or title designating such business. The articles of agreement shall set out:

First—The corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this state for similar purposes, or an imitation of such name.

Second—The name of the city, or town, and county, in which the corporation is to be located.

Third—The amount of capital stock of the corporation, the number of shares of one hundred dollars each, into which it is divided, and the par value thereof, and that the entire amount thereof has been subscribed in good faith, and actually paid up in lawful money of the United States, and is in possession of the persons named as the first board of directors.

Fourth—The names and places of residence of the several shareholders, and the number of shares subscribed by each.

Fifth—The number of the board of directors, and the names of those agreed upon for the first year.

Sixth—The number of years the corporation is to continue, which in no case shall exceed fifty years.

Seventh—The purposes for which the corporation is formed. (Laws 1891, p. 86.)

SEC. 1441. Articles signed by whom.—The articles of this agreement shall be signed and acknowledged by the parties thereto, and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state, who shall thereupon give a certificate that said corporation has been duly organized and the amount of its capital stock, and such certificate shall be taken by all courts of this state as evidence of the corporate existence of such corporation. The persons so acknowledging such articles of association, and their successors, shall, for the period not to exceed fifty years next succeeding the issuing of such certificate by the secretary of state, be a body corporate, and by such name they and their successors shall be entitled to have, possess and enjoy all the rights, powers and privileges conferred by law upon corporations, subject to the provisions of this article. (Laws 1891, p. 86.)

SEC. 1442. Capital, amount of.—The capital stock of any corporation created under this article shall be not less than ten thousand dollars in cities having a population of fifty thousand inhabitants or under, and not less than fifty thousand dollars in cities having a population of more than fifty thousand and less than one hundred and fifty thousand inhabitants, and not less than one hundred thousand dollars in cities having a population of one hundred and fifty thousand inhabitants or over—the entire amount of capital stock to be subscribed for in good faith, and actually paid up in lawful money of the United States at the time of the filing of the articles of association, which capital stock shall be regarded as a guaranty fund for the security of depositors, and shall be invested as provided in sections 1445 and 1446 of this article. (Laws 1891, p. 86.)

SEC. 1443. Board of directors—how elected—term.—The property and business of the corporation shall be controlled and managed by a board of directors, not less than five nor more than thirteen in number, who shall be stockholders of the corporation, and a

majority of whom shall be *bona fide* citizens of this state, to be elected by ballot by the shareholders of the corporation for one year, at such time and place as shall be directed by the by-laws of the corporation, of which time and place at least two weeks' notice shall be published in some newspaper published at least once a week in the city or county in which the corporation is located. Such election shall be made by such of the shareholders as shall attend in person, or by proxy in writing. In case the election shall not be made on the day named, the corporation shall not thereby be dissolved, but an election may be held at any other time, agreeable to the by-laws of the corporation; and the persons so elected shall hold their offices until others are elected and qualified. If the number of directors shall exceed five, they shall, as soon as may be after organization, divide themselves by ballot into three classes, of equal number as near as may be, designated the first, second and third class, of which the first class shall remain in office one year, the second class two years and the third class three years; and at each annual election conducted in the manner hereinbefore designated, directors shall be elected for the term of three years to fill the vacancies created by the retiring class. In case of death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election. (Laws 1891, p. 86.)

SEC. 1444. Duty of board of directors—qualifications—officers.—The directors shall elect from their number a president, one or more vice-presidents and secretary and treasurer, and may appoint such other officers and agents as they may deem necessary for the proper conduct of the business of the corporation, and may allow them reasonable compensation for services rendered, and a vote of a majority of the full board shall be requisite for the appointment of any officer receiving a salary therefrom, or to fix or increase the salary of any officer. No person shall be disqualified for being director by reason of his being a director or officer of a banking or saving institution organized under the laws of this state. The board of directors of any such corporation shall have power, from time to time, to make such by-laws, rules and regulations as they may think proper for the election of officers, for prescribing their respective powers and duties, and the manner of discharging the same, for the appointment and duties of committees, and generally for transacting, managing and directing the affairs of the corporation: *Provided*, such by-laws, rules and regulations be not repugnant to nor inconsistent with the provisions of this article, or the constitution and laws of this state or the United States. (Laws 1891, p. 86.)

SEC. 1445. Purposes for which corporation may be created—investment of deposits.—Corporations may be created under this article: First, for the purpose of receiving, for accumulation and safekeeping, any deposits of money, from any persons, corporation or society, and investing, holding and repaying the same, crediting and paying interest thereon, as in this article authorized and provided, and not otherwise; and, secondly, also, at its option, in connection therewith, for the purpose of taking and receiving as bailee for safekeeping and storage only, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind and other valuables, and guaranteeing their safety, upon such terms and for such compensation as may be agreed upon, and to let out vaults, safes and other receptacles for the uses, purposes and benefits of such corporation. All sums so received, except those held as bailee for safekeeping

and storage only, and the income derived therefrom, and all moneys entrusted to any such corporation by order of court or other lawful authority, shall be invested only as follows:

First—In bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged for the payment of the interest and principal.

Second—In bonds of this state bearing interest.

Third—In bonds of any state in the Union that has not, within five years previous to making such investments by such corporation, defaulted in the payment of any part of either principal or interest thereof.

Fourth—In bonds of any city, county, town, township, or school district of this state that has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investment, and provided, such bonded debt does not exceed five per cent.

Fifth—In the bonds of any city, town, or county which has, in each case, at the time of the investment, more than twenty thousand inhabitants, as ascertained by the United States or state census, made next preceding such investment, in the states of Illinois, Ohio, Indiana, Michigan, Iowa, Kansas, Nebraska, Wisconsin, Colorado or Texas, issued pursuant to the authority of any law of such states: *Provided*, the entire bonded indebtedness of such city or county shall not exceed five per cent. of the assessed value of the taxable property therein, including the issue of bonds in which said investment is made, as shown by the last assessment preceding the investment; *and provided further*, that such city, town or county, or state in which it is situated, has not defaulted in the payment of any part of either principal or interest thereof within five years previous to making such investment. It shall not be lawful for any savings institution organized under this article to invest more than twenty-five per cent. of its assets in the bonds of cities, towns or counties situated outside of this state, nor to invest more than three per cent. of its assets in the bonds of any one of such cities, towns or counties, nor to invest in more than ten per centum of all the bonds issued by any such city, town or county, nor to make any investment in the bonds of any city, town or county situated out of this state which has been or shall be issued to aid in the construction of any railroad.

Sixth—In the first mortgage bonds of any steam railway, the income of which is sufficient to pay all operating expenses and fixed charges, and which is completed and operated, wholly or in part, in the following-named states: Missouri, Indiana, Iowa, Minnesota, Kansas, Nebraska, Colorado, Michigan, Illinois, Wisconsin, Arkansas, Texas and Ohio, and which has paid the interest as it became due on its bonds for three years next preceding such investment, or in the first mortgage bonds of the Central Pacific, Northern Pacific, Union Pacific, New York Central, West Shore and Pennsylvania railway companies.

Seventh—In bonds or notes secured by first mortgages or deeds of trust on unencumbered improved real estate, worth at least twice the amount loaned thereon, but in case the loan is on unimproved and unproductive real estate, the amount loaned shall not be more than forty per cent. of its actual value; but not to exceed sixty per cent. of the whole amount of the funds of the corporation shall be so loaned or invested, and no investment in any bond or notes so secured shall be

made except upon the report of a committee charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged, according to their best judgment, and such report shall be filed and preserved among the records of the institution.

Eighth—In real estate, subject to the provisions of section 1446 of this article.

It shall be the duty of the directors of any such corporation, as soon as practicable, to invest such fund of money by purchase or otherwise, in the securities named in sections 1445 and 1446 of this article, with power from time to time to sell and re-invest the proceeds of such investment; but, for the purpose of meeting current payments and expenses in excess of the receipts, any of the securities may be sold or pledged; and there shall be kept an available cash fund of not less than fifteen per cent. of the whole amount of its assets, and the same, or any part thereof, together with the current receipts over the payments, may be kept on hand, or on deposit, payable on demand, in any bank or banking association in the state of Missouri, organized under any law or laws of this state or of the United States, or with any safe deposit company, or trust company, incorporated under the laws of this state. The deposits in any one bank, safe deposit or trust company shall not exceed twenty per cent. of the total deposits, capital and surplus of the depositing bank. (Laws 1891, p. 86.)

SEC. 1446. May purchase and sell certain real estate.—It shall be lawful for such corporation to purchase, hold, sell and convey real estate, as follows:

First—A plot whereon is erected or to be erected a building or buildings requisite for the convenient transaction of its business, and from portions of which, not required for its own use, a revenue may be derived, the cost not to exceed the sum of one hundred thousand dollars, except in cities of over 300,000 inhabitants, when the cost shall not exceed two hundred and fifty thousand dollars.

Second—Such as shall be purchased by it at sales upon the foreclosure of mortgages or deeds of trust owned by such corporation, or upon judgments or decrees rendered for debts due to it, or purchased or taken in settlements to secure such debts; and all such real estate mentioned in this clause shall be sold by such corporation within five years after the same shall be vested in it, unless the secretary of state shall extend the time within which such sale shall be made. No such corporation, nor any person acting in its behalf, shall negotiate, take or receive a fee, brokerage, commission or gift, or other consideration, for or on account of a loan made by and in behalf of such corporation, other than appears on the face of the note or contract by which such loan purports to be made; but nothing contained herein shall apply to any reasonable charge for services in the examination of titles and the preparation of conveyance to such corporation as security for its loans. All sums paid for services, fees or otherwise to a member of the board of directors shall be reported in detail at each regular meeting of the directors. All applications for loans shall be made in writing through the treasurer of the corporation, who shall keep a record thereof, showing the date, name of applicant, amount asked for and the security offered, and shall cause the same to be presented to the board of directors. (Laws 1891, p. 86.)

SEC. 1447. Forbidden to deal in certain property.—It shall be unlawful for any such corporation to deal or trade in real

estate, except as provided in section 1446 of this article, or to deal or trade in goods, wares and merchandise or commodities whatever, except as authorized by the terms of this article, and except such personal property as may be necessary in the transaction of its business as by this article authorized; or to loan money upon or to discount or deal in notes, bills of exchange or other personal security, or to transact any banking business, whether of issue, deposit or discount. The board of directors may, however, make loans to the depositors, not exceeding fifty per cent. of the amount on deposit by such depositor at the date the loan is made, and in such case the deposit and the book of the depositor shall be held by the corporation as collateral security for the payment of such loan. (Laws 1891, p. 86.)

SEC. 1448. Directors shall not borrow funds of association—failure to attend meetings.—No director shall, as such, directly or indirectly, receive any payment or emolument for his services, except as hereinafter provided; and no director or officer of such corporation shall, directly or indirectly, for himself or as the agent or partner of others, borrow any of the funds of the corporation or in its custody, or in any manner use the same, except to make necessary current payments for the corporation, or to make investments or to deposit for safety, under the direction and authority of the board of directors; nor shall any director or officer of such corporation be an indorser or surety, or in any manner be an obligor for moneys loaned by, or borrowed of, the corporation. Whenever a director of such corporation shall borrow, directly or indirectly, any of the funds of the institution of which he is a director, or become surety or guarantor for any money borrowed of or loans made by such corporation, or upon his failure to attend regular meetings of the board, or to perform any duties devolved upon him as such director, for three successive months without having been excused by the board for such failure, the office of such director shall become vacant; but the director vacating his office for failure to attend meetings or to discharge his duties, may in the discretion of the board, be eligible to re-election. (Laws 1891, p. 86.)

SEC. 1449. Regular meetings of board of directors.—Regular meetings of the board of directors shall be held at least once in each month for the purpose of receiving the reports of the officers and committees, and for the transaction of other business. A quorum at any regular, special or adjourned meeting shall consist of not less than a majority of the directors, but less than a quorum may adjourn from time to time, or until the next regular meeting. (Laws 1891, p. 86.)

SEC. 1450. What may be received as deposits.—Corporations formed under the provisions of this article may receive deposits, exclusive of money and property received as bailee for safekeeping and storage only, as follows, to wit: Those having a paid-up capital of \$10,000 may receive deposits to the amount of \$200,000; those having a paid-up capital of \$25,000 may receive deposits to the amount of \$500,000, and those having a paid-up capital of \$50,000, deposits to the amount of \$1,000,000; and no greater amount of deposit shall be received without a like proportionate increase of cash capital. Deposits shall be paid to depositors, or their representatives, when requested, under such regulations as the board of directors may prescribe, not inconsistent with the provisions of this article, which regulations shall be printed and conspicuously posted in all places where deposits are

received, accessible and visible to all depositors; but no alterations in such regulations shall, in any manner, affect depositors in respect to any deposits, or interest thereon, made prior to such alteration; and it shall be lawful to require sixty days' written notice of the withdrawal of any deposit. Any account may be closed at any time upon such notice to the depositor, and after such notice the deposit shall cease to draw interest: *Provided*, nothing in this article shall be so construed as to prevent the issuing of certificates of deposit payable on demand. (Laws 1891, p. 86.)

SEC. 1451. Deposits by minors or females.—Whenever any deposit shall be made by or in the name of any person being a minor, or a female, being or thereafter becoming a married woman, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all persons whatsoever, except creditors, and shall be paid, together with the interest thereon, upon production of and proper entry in the pass-book at the time of such payment, and in accordance with the by-laws of the corporation, to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor or female shall be a valid and sufficient release and discharge for such deposit, or any part thereof, to the corporation; and whenever any deposit shall be made by any person in trust for another and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank, in the event of the death of the trustee, the same, or any part thereof, together with the dividends or interest thereon may be paid to the person for whom the said deposit was made. (Laws 1891, p. 86.)

SEC. 1452. Pass-books.—A pass-book shall be issued to each depositor, containing the rules and regulations adopted by the board of directors governing deposits, in which book shall be entered each deposit made by and each payment made to such depositor; and no payment or check against any such savings account shall be made unless accompanied by and entered in the pass-book issued therefor, except for good cause and on assurances satisfactory to the officers of the bank. At least once in every three years, the pass-books of all depositors shall be called in and verified in such a manner as the board of directors may elect. The directors may provide for making payments in case of loss of pass-book or other exceptional case, where its production may produce loss or serious inconvenience to the parties, and every such corporation shall have the right to limit the aggregate amount which they will receive from any one person or society to such sum as they may deem expedient and may, in their discretion, refuse to receive the sum offered, and may also at any time return all or any part of any sum received: *Provided*, that the aggregate amount that may be received from any one individual or corporation shall not exceed four thousand dollars, inclusive of dividends; but this limitation shall not apply to moneys arising from judicial sales or trust funds, or if received pursuant to order of a court of record, or to moneys or property received as bailee for safekeeping and storage only. (Laws 1891, p. 86.)

SEC. 1453. Capital stock limited to what No corporation formed under the provisions of this article shall have a capital stock of more than five million dollars, and any such corporation may increase its capital stock, in any amount within the limit of this article, but all increase of stock shall be subscribed for in good faith, and shall

be paid up in full in lawful money of the United States at the time of filing the certificate of increase. (Laws 1891, p. 86.)

SEC. 1454. Rate of interest allowed depositors.—It shall be the duty of the board of directors to regulate, from time to time, the rate of interest to be allowed to depositors out of the net profits, and to pay or credit the same semi-annually on semi-annual interest dates to be fixed by the by-laws: *Provided, however*, that the directors of any such corporation may classify its depositors according to the character, amount and duration of their dealings with the corporation and regulate the interest allowed in such manner that each depositor shall receive the same ratable portion of interest as all others of the same class. (Laws 1891, p. 86.)

SEC. 1455. Dividends and guaranty fund.—Whenever interest, at the rate of not less than three per cent. per annum, shall have been paid or credited out of the net profits of the current six months, on all savings or trust funds which may be entitled thereto, the board of directors may, out of the remaining net earnings of such six months, if any there be, declare and pay a dividend on the capital stock of the corporation, not exceeding at the rate of six per centum per annum on the par value thereof: *Provided, however*, that no such dividend shall be declared or paid until at least one-tenth of the net profits of the corporation for such period of six months shall be carried to the credit of a guaranty fund, until such fund equals the amount of the capital stock, which fund shall be invested as provided in sections 1445 or 1446 and held as additional security for the depositors. (Laws 1891, p. 86.)

SEC. 1456. Excess of profits to be applied to arrears of dividends.—If for any period of six months the net profits shall not be sufficient to pay a dividend on the capital stock amounting to three per cent. for such six months, then, if there are any net profits in any succeeding months' period or periods over the interest required to be paid depositors for such period or periods, and the amount required to be carried to the guaranty fund, such excess of net profits shall be applied to the arrears of the dividends on the capital stock; and until such arrears of dividends are paid in full, no part of the net profits shall be credited on the indemnity fund, as provided in section 1457, or to the payment of the extra interest to the depositors as provided in section 1458. (Laws 1891, p. 86.)

SEC. 1457. Indemnity fund.—Whenever the guaranty fund amounts to a sum equal to the capital stock of the corporation, and after interest on the deposits and dividends on the capital stock have been paid as provided in sections 1455 and 1456, the board of directors shall, at the time of making the regular semi-annual dividends set aside and reserve from the remaining net profits which have accumulated during the preceding six months, a sum not exceeding one-fourth of one per cent. of the total deposits on such interest day, to be known as an indemnity fund, until such fund amounts to ten per cent. of the whole deposits, and such fund shall thereafter be maintained and held to meet any contingency or loss from depreciation of securities or otherwise. (Laws 1891, p. 86.)

SEC. 1458. Net profits divided among certain depositors. Once in every term of three years, if the profits which have accumulated over and above the guaranty and indemnity funds, as provided in sections 1455 and 1457, amount to one per cent. of the deposits which

have remained in such corporation for at least one year next preceding, such net profits shall be divided among the depositors whose deposits shall have remained therein at least one year next preceding, in proportion to the amount of interest which has been paid on their deposits during the three years then next preceding; but nothing in this article contained shall be so construed as to require the payment of any interest on money or property received as bailee for safekeeping and storage only. (Laws 1891, p. 86.)

SEC. 1459. No dividends declared until examination is made.—No interest or dividends shall be paid or declared until the board of directors of such corporation cause an examination to be made of the assets and securities, and find the amount of such interest and dividend has been actually earned and accrued, and no interest or dividend shall be paid or declared unless authorized by a vote of the board of directors, at a regular meeting, duly entered on the minutes. (Laws 1891, p. 86.)

SEC. 1460. Notices and rules.—Notices and rules posted conspicuously in the room where the business of such corporation is transacted, shall be equivalent to a personal notice to each person or party interested. (Laws 1891, p. 86.)

SEC. 1461. Guaranty and indemnity funds.—In determining the per cent. of the guaranty and indemnity funds so held, the interest-bearing notes and bonds shall not be estimated above their par value, or above their market value if below par; its bonds and mortgages and deeds of trust, not in arrears for interest for a period longer than one year, at their face; its real estate at not above cost. All debts due any savings bank or institution on which the interest is past due for a period of twelve months, unless well secured and in process of collection, shall be considered as bad debts, and shall be charged to profit and loss account at the expiration of that time. (Laws 1891, p. 86.)

SEC. 1462. Compensation of directors acting as officers. It shall be lawful for directors acting as officers of such corporation, whose duties require and receive regular and faithful attendance at the institution, to receive such compensation as the majority of the board of directors shall deem just and reasonable; but such majority shall be exclusive of any director to whom such compensation shall be voted. But it shall not be lawful to pay the directors, as such, for attendance at the meetings of the board. (Laws 1891, p. 86.)

SEC. 1463. Officers to give security for fidelity.—The board of directors may, from time to time, require from the officers, employees and agents such security for their fidelity and good conduct as may be necessary. (Laws 1891, p. 86.)

SEC. 1464. Corporation to make report to secretary of state—contents.—Every such corporation shall, on or before the first day in November in each year, make a report in writing to the secretary of state, in such form as he may prescribe, of its condition on the first day of September preceding. Such report shall state the amount loaned on bond and mortgage, together with a list thereof, the par value and the estimated market value of all bond investments, designating each particular kind and amount invested in each; the amount loaned upon pledge of deposits, with a statement of the amount held as collateral for such loans; amount of cash on hand and on deposit in banks, safe deposit or trust companies, with their names

and amount deposited in each; the amount of all assets, including interest accrued and not enumerated above, and such other information as the secretary of state may require. (Laws 1891, p. 86.)

SEC. 1465. What report shall state.—Such report shall also state all liabilities on the morning of the first day of September, the amount due depositors, which shall include any dividend to be credited to them for six months on that day, and any other claims against the corporation which are or may be charged against its assets. Such report shall also state the amount of all deposits made during the fiscal year ending that day, and the amount drawn out during the same period; the whole amount on interest received and earned, and the amount of interest paid and credited to depositors, together with the amount of each semi-annual credit of interest; the number of accounts opened and re-opened, the number closed during the year, and the number of open accounts at the end of such year, and such other information as the secretary of state may require. (Laws 1891, p. 86.)

SEC. 1466. Report to be verified by three directors—directors to examine books.—Such report shall be verified by the oath of the two principal officers of the institution, and the statement of the assets shall be verified by the oath of at least three of the board of directors, who shall examine the same pursuant to the requirements of this section. It shall be the duty of not less than three of the directors, on or about the first day of September of each year, to thoroughly examine the books, vouchers and assets of such institution, and its affairs generally, and the statement of assets and liabilities reported to the secretary of state on the first day of November of such year shall be based upon such examination; but nothing herein contained shall be construed as prohibiting the directors from requiring such examination at such other times as they shall prescribe. Any such corporation failing to furnish to the secretary of state any report or statement required by this article shall forfeit the sum of one hundred dollars per day for every day such report or statement shall be so withheld, and the secretary of state may maintain an action, in his name of office, to recover such penalty, and when collected, the same shall be paid into the treasury of the state, and be applied to the school fund; but the secretary of state may, for sufficient cause, extend the time for making such report, not exceeding thirty days. (Laws 1891, p. 86.)

SEC. 1467. Secretary of state to report to legislature. It shall be the duty of the secretary of state, on or before the first day of February during each general assembly, to communicate to the legislature a statement of the condition of every such corporation from which a report has been received for the past two preceding years; also the name and location of savings banks and institutions for savings authorized by him during the previous two years, with the date of their incorporation. (Laws 1891, p. 86.)

SEC. 1468. Secretary of state to examine.—It shall be the duty of the secretary of state once in two years, either personally or by one or more competent persons to be appointed by him, to visit and examine every such corporation in this state. The secretary of state shall also have power in like manner to examine any such corporation whenever, in his judgment, it may be deemed necessary or expedient. The secretary of state and every such examiner shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of

any such person for the purpose of such examination, by summons, subpoena or attachment, in the manner now authorized in respect to the attendance of persons as witnesses in the courts of record in this state; and all books and papers which it may be deemed necessary to examine by the secretary of state or examiner so appointed shall be produced, and their production may be compelled in like manner. The expense of every such special examination, if any, shall be paid by the corporation examined, in such amount as the secretary of state shall certify to be just and reasonable; but whenever such special examination shall be made by the secretary of state in person, or by one or more of the regular clerks in his department, no charge shall be made except for necessary traveling and other actual expenses. The result of any such examination shall be certified by the examiner, or one of them, upon the records of the corporation examined, and the result of all the regular examinations during the previous year shall be embodied in the annual report of the secretary of state required by this article to be submitted to the legislature. (Laws 1891, p. 86.)

SEC. 1469. Duty of secretary when corporation is doing unsafe or unauthorized business—proceedings.—Whenever it shall appear to the said secretary of state, from any such examination or report, that any such corporation is conducting its business in an unsafe or unauthorized manner, he shall, by an order under his hand and seal, direct the discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law and with safety and security in its transactions; and whenever any such corporation shall refuse or neglect to make any such report as is hereinbefore required, or to comply with any such orders as aforesaid, or whenever it shall appear to the secretary of state that it is unsafe or inexpedient for any such corporation to continue to transact business, or that extraordinary withdrawals of money are jeopardizing the interests of remaining depositors, or that any director or officer has abused his trust or been guilty of misconduct or malversation in his official position, injurious to the institution, or that it has suffered a serious loss by fire, burglary, repudiation or otherwise, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings as the nature of the case may require. Such proceedings may be for an order restraining such institution from paying out more than ten per cent. of its funds in any six months, or until the further order of the court, or for the removal of one or more of the board of directors, or for the appointment of a receiver or receivers to wind up the affairs of such corporation. And the court before which such proceedings shall be instituted shall have power to grant such orders, and, in its discretion, from time to time, modify or revoke the same, and to grant such relief as the evidence, situation of the parties and the interests involved shall seem to require; and whenever in such proceedings an order shall be granted restraining such corporation from paying out or disposing of any moneys or property of or held by such corporation, the secretary of state may, and if directed by the court shall, take temporary possession of all the assets, property and rights of or held by such corporation, and hold such possession until restored to the directors, or until further order of the court. (Laws 1891, p. 86.)

SEC. 1470. What corporations may accept provisions of this article.—Any bank, trust or safe deposit company organized

under the laws of this state, whose capital is fully paid up and unimpaired, may, with the consent of all its stockholders, accept the provisions of this act by filing with the secretary of state a certificate of such acceptance, signed by its president and secretary. The consent of the stockholders to such acceptance may be in writing, or by vote of the stockholders at any meeting at which all the stockholders are represented, and vote in favor of such acceptance. Upon filing of such certificate of acceptance, such corporation shall thereupon become subject in all respects to the provisions of this article, and to the general laws of this state relating to corporations, with like effect as if it had been originally incorporated under the provisions of this article; and it shall take such action as may be necessary to make its corporate organization conform in all respects to the provisions of this article, and until such action is taken it shall not transact any corporate business: *Provided*, that such corporation shall be allowed two years after filing such certificate of acceptance within which to change any investments made prior to the filing of such certificate of acceptance. (Laws 1891, p. 86.)

SEC. 1471. Unlawful advertising.—It shall not be lawful for any bank, banking association or individual banker, firm, association, corporation, person or persons, to advertise or put forth a sign as a savings bank, or in any way solicit or receive deposits as a savings bank, except those institutions which have been incorporated under this article or the laws of this state prior to the passage of this article, or are now using the name, or are now receiving savings deposits and trust funds; and any bank, banking association or individual banker, firm or association, corporation, person or persons, which shall offend against these provisions, shall forfeit and pay for every such offense the sum of one hundred dollars for every day such offense shall be continued, to be sued for and recovered in the name of the people of the state, by prosecuting attorneys of the several counties, in any court of cognizance thereof, for the use of the school fund in the county in which such offense shall be committed. (Laws 1891, p. 86.)

SEC. 1472. How corporation may dissolve.—Whenever the board of directors of any solvent corporation organized under this article shall deem it necessary, expedient or desirable to close the business of the corporation, they shall call a meeting of the stockholders to vote upon the proposition to close the business of such corporation, first having given sixty days' notice thereof by publication once every week in a newspaper published in the county or city in which such corporation is located, or if there be no newspaper published in the county or city, then the nearest county in which such newspaper is published, and also by mailing notices thereof, at least sixty days prior to the day fixed for such meeting, addressed to stockholders at their usual place of business or residence. The vote upon such proposition shall be taken by ballot, and the resolution and vote thereon shall be recorded in the minutes of the board of directors. If at such meeting at least two-thirds of the shares of such corporation are voted in favor of such proposition, the board of directors shall proceed to wind up the business of such corporation, as in this section provided. A copy of such proceedings, to be certified by the president and secretary of such corporation, shall be filed with the secretary of state. The board of directors shall thereupon give notice to all depositors, creditors and stockholders of the adoption of such resolution, by the publication

once a week thereof in a daily or weekly newspaper, for three months thereafter, and by a printed or written notice personally served upon or mailed to every depositor, creditor or stockholder of such corporation, at the last-known residence, postage full paid. Within six months after the filing of such certificate in the office of the secretary of state, the corporation shall pay all sums due to depositors and creditors, whom they can discover, and who claim the moneys due them, and, upon the expiration of six months after the filing of such certificate, it shall be the duty of the corporation to make a statement from the books of said corporation, certified by its president and secretary, of the names of all depositors and creditors who have not claimed or have not received the balances to their credit or due them respectively, and to file the same with the state treasurer, and to pay to said state treasurer all such unclaimed deposits, moneys, and credits for the use and benefit of such depositors and creditors. Whenever all the depositors and creditors have been paid in full, or the amounts due those who cannot be found, or who have not claimed the same, have been deposited with the treasurer of the state, for their use and benefit, the board of directors shall divide the capital stock, guaranty and indemnity fund, and any other assets or the proceeds of the securities or real estate in which the same may have been invested, among the stockholders, ratably. The board of directors shall thereupon, after having divided the remaining property among the shareholders, as hereinbefore provided, file in the office of the secretary of state a certificate surrendering the corporate franchise. (Laws 1891, p. 86.)

ARTICLE XIV.

TRAINING SCHOOLS FOR MINORS.

SECTION

- 1473. Corporators, number of—consent of governor to organize.
- 1474. Object of training schools.
- 1475. Who may be sent—petition, requisites of.
- 1476. Clerk shall issue writ—notice to guardian—order of court.
- 1477. Court to appoint guardian, when.
- 1478. Warrant of commitment—duplicate copy of, how indorsed.
- 1479. Superintendent shall receipt for minor.

SECTION

- 1480. Officers of school to have guardianship, etc., of inmates—duties of.
- 1481. Inmates may be adopted, bound out, etc.—officers to exercise supervision over.
- 1482. Inmates may be discharged, when.
- 1483. Power of court committing minor to order discharge—appeals allowed.
- 1484. School shall receive no appropriation from state.

SEC. 1473. Corporators, number of—consent of governor to organize.—Any seven or more persons, resident of this state, who may organize in the manner provided for in section 1395 of article XI of this chapter, or who may have organized under the general laws of the state relating to corporations, for the purpose of establishing, maintaining and carrying on a training school for minors, shall have, under their corporate name assumed, all the powers, rights and privileges of corporations of this state, not for pecuniary profit: *Provided, however,* that any persons organized, or who may hereafter organize as above set forth, desiring to avail themselves of the provisions of this article, shall first obtain the consent of the governor thereto in writing, which consent must be filed in the office of the secretary of state. (R. S. 1889, § 2873.)

SEC. 1474. Object of training schools.—The object of training schools for minors shall be to provide a home and proper training school for such minors as may be committed to their charge; and they shall be maintained by voluntary contributions, excepting as hereinafter provided. (R. S. 1889, § 2874.)

SEC. 1475. Who may be sent—petition, requisites of. Any responsible person, a resident of any county of this state or any city not in a county in this state, may petition the county court, police court, or any court of record of such city or county, to inquire into the alleged dependency of any minor then within such city or county, and every minor who shall come within the following descriptions shall be considered a dependent minor, viz.: Every minor who frequents any street, alley or other place for the purpose of begging or receiving alms, or who shall have no permanent place of abode, proper parental care or guardianship, or sufficient means of subsistence; or who from some other cause shall be a wanderer through the streets or alleys, or other public places; or who shall live with or frequent the company of, or consort with, reputed thieves or other vicious persons. The petition shall also state the home of the father and mother of the minor, if living and if known, or if either be dead, the name of the survivor, if known; and if neither the father nor mother of the minor be living, or to be found in the county, or their names to be ascertained, then the name of the guardian, if there be one. If there be a parent living, whose name can be ascertained, or a guardian, the petition shall set forth not only the dependency of the minor, but shall also show that the parents, or parent or guardian, are, or is, not fit persons or person, to have the custody of such minor. Such petition shall be verified by oath upon the belief of the petitioner, and upon being filed, the judge shall have the minor named in the petition brought before him for the purpose of determining the application in said petition, and the courts for this purpose shall be considered always open. (R. S. 1889, § 2875.)

SEC. 1476. Clerk shall issue writ—notice to guardian—order of court.—Upon the filing of such petition the clerk of the court shall issue a writ to the sheriff of the county or city aforesaid, directing him to bring such minor before the court, who shall be entitled to a private trial, to which only the parties to the case shall be admitted; or such court may order a jury to be summoned to ascertain whether such minor is dependent, as alleged in said petition, and also to find if the other allegations are true, and if found to be such, they shall also find his or her age in their verdict; and when such minor shall be without counsel, it shall be the duty of the court to assign counsel for him or her; and if the jury shall find that the minor named in the petition is a dependent minor, and that the other material facts set forth in the petition are true, and if, in the opinion of the judge, he or she is a fit person to be sent to a training school for minors, the judge shall enter an order that such minor be committed to a training school for minors in the county as aforesaid, if there be such in the county or city, but if there be no such school in the county or city, then to any training school for minors elsewhere in the state, to be in such school kept and maintained until he or she shall arrive at the age of majority, unless sooner discharged therefrom in the manner hereinafter provided. Before the hearing aforesaid, notice shall be given to the parent or guardian of the minor, if to be found in the county

or city, of the proceedings about to be instituted, and they may appear and resist the same. (R. S. 1889, § 2876.)

SEC. 1477. Court to appoint guardian, when.—If the court finds as in the preceding section, it shall further order of record that such minor has no guardian, or that his guardian or parent, or parents, is or are not fit person or persons to have the custody of such minor, as the case may be, and the court shall thereupon appoint a guardian of the custody and tuition of such minor, and no bond shall be required of such guardian, and such guardian shall permit such minor to be placed under the care and in the custody of such training school for minors, as herein provided. (R. S. 1889, § 2877.)

SEC. 1478. Warrant of commitment, duplicate copy of—how indorsed.—A warrant shall thereupon be issued in duplicate by the clerk to some suitable person, a resident of the state, to be designated by the judge, authorizing him or her to take in charge and care the dependent minor named in said order, and convey him to the training school for minors to which he or she is to be committed; and said warrant shall be substantially as follows:

State of Missouri,)
City of ———,) ss.
County of ———,)

State of Missouri to ———:

You are hereby authorized to take forthwith into your charge and care ———, aged ——— years, who has been declared a dependent boy or girl (as the case may be), and convey him or her (as the case may be) to the ——— training school for minors; and of this warrant you are commanded to make due return to this court after its execution.

Witness my hand and seal of the ——— court of ———, this ——— day of ———,

A. D. —.

This warrant, with the receipt thereon, shall be returned to the clerk, to be filed by him with the other papers relating to the case, and this warrant shall be a sufficient and competent authority for the proper officers and agents of the training school for minors to which it is directed to receive, keep and detain the person therein named, and a duplicate copy thereof shall be delivered to the superintendent or other proper officer of such school, to be kept by him at the school, which duplicate shall have thereon a full copy of all indorsements made upon the one returned to court, and to be recorded by him in a book kept for that purpose, and said book shall always be open to the inspection of any person. (R. S. 1889, § 2878.)

SEC. 1479. Superintendent shall receipt for minor.—Upon receiving the dependent minor, the superintendent of the school shall indorse upon the warrant referred to in the preceding section a receipt, as follows:

(As the case may be) training school for minors. Received this ——— day of ———,

A. D. 19—, the boy or girl (as the case may be) named in this warrant.

[Seal of school.]

—————, superintendent.

(R. S. 1889, § 2879.)

SEC. 1480. Officers of school to have care and guardianship of inmates—duties of.—The officers and managers of any training school for minors in this state shall receive into such school all minors not idiotic and not afflicted with a contagious disease, committed thereto under the provisions of this article, shall have the exclusive custody, care and guardianship of such minors, shall provide

for their support and comfort, instruct them in such useful knowledge as may be suited to their years and capacities, and shall cause them to be taught or trained in some trade or industrial pursuit. And for the purpose of their education and training, and that they may assist in their own support, they shall be required to perform such tasks suitable to their years as may be prescribed by such officers and managers, and as may be reasonable and proper. (R. S. 1889, § 2880.)

SEC. 1481. Inmates may be adopted, bound out, etc.—officers to exercise supervision over.—Minors committed under the provisions of this article to a training school for minors may, by the officers and managers of said school, be placed in the home of any good citizen, upon such terms and for such purpose and time as may be agreed upon, or he or she may be given to any suitable person of good character who will adopt him or her, or he or she may be bound to any reputable citizen as an apprentice to learn any trade, or as a servant to follow any employment which, in the judgment of said officers and managers, will be for his or her advantage; and the provisions of chapter 70, in relation to apprentices, in so far as they are applicable, shall apply to and be binding upon such officers and managers, and upon such minor and upon the person to whom such minor may be bound: *Provided*, that any disposition made of any minor under this article shall not bind him beyond his or her majority; *and provided further*, that such officers and managers shall have a supervising care over such minor after he or she shall so be put out, to see that he or she is properly treated and cared for; and in such case a minor is cruelly treated or neglected, or the terms upon which he or she shall have been put out to any person be not observed, then it shall be the duty of such officers and managers to take and receive such minor again into the custody, care and protection of said training school. And such officers and managers shall have power to reclaim any minor put out to any person under the terms of this article, without the consent of the person to whom the minor may be so put out, whenever, in the judgment of the said officers and managers, the minor shall be cruelly treated, neglected in training, proper instructions or otherwise, or not properly cared for. (R. S. 1889, § 2881.)

SEC. 1482. Inmates may be discharged, when.—Any minor committed to a training school for minors under the provisions of this article may be discharged therefrom at any time in accordance with the rules thereof, when, in the judgment of the officers and managers, the good of the minor or the good of the school would be promoted by such discharge, and the governor may at any time order the discharge of any minor committed to a training school under the provisions of this article. (R. S. 1889, § 2882.)

SEC. 1483. Power of court committing minor to order discharge—appeals allowed.—The court committing minors to a training school under the provisions of this article shall have power at any time after making such commitment, upon proper showing, to order the discharge of the minor or his or her restoration to his or her parents, and shall also have power generally to make all orders relative to minors committed by such court, in order to apply the benefits of this article to such minors, and for the purpose of reclaiming such minors the court may send its writ to any county in this state. Appeals as in other cases shall be allowed from all final orders made by such court under this article. (R. S. 1889, § 2883.)

SEC. 1484. School shall receive no appropriation from the state.—No training school organized under the provisions of this article shall receive any appropriation from the state. Any school receiving such appropriation shall not be entitled to the benefit of the provisions of this article: *Provided*, that any county in this state may, in the discretion of the county court of such county, send any boy of the class defined in section 1475 of this article to such training school at the expense of the county, and such county shall be allowed to pay the sum of ten dollars per month for the support and maintenance of any such boy at such training school, to be paid quarterly in advance, and the sheriff, constable, marshal, or other person charged with the delivery of any boy to such training school, shall be allowed for such delivery the necessary traveling expenses of himself and such boy and a reasonable *per diem*, which account shall be allowed by the county court, if correct, when presented to the court. (R. S. 1889, § 2884, amended, Laws 1891, p. 98.)

ARTICLE XV.

POLICE FORCE AND FIRE DEPARTMENT RELIEF ASSOCIATIONS.

SECTION

1485. May form relief associations—police force.

1486. Fund, how created—police relief association.

1487. Who may form—fire department.

SECTION

1488. Who may become members.

1489. May admit honorary members.

1490. Funds to create fire department pension fund.

1491. Who to be treasurer.

SEC. 1485. May form relief associations—police force. Any police force organized or existing by authority of the laws of this state in any city having a population of over one hundred thousand inhabitants, and in any city of the second class, is hereby authorized and empowered to form a relief association under the general incorporation laws of this state, and to create a fund for the purpose of affording relief to such members of their organization as may become sick or disabled while in the discharge of their duties, or who may become incapacitated by long years of service, and for aiding the families of police officers who may die while in the service of any police department, and for such other similar purposes as may be set forth in their articles of incorporation. (R. S. 1889, § 2885, amended, Laws 1891, p. 84—z.)

SEC. 1486. Fund, how created—police relief association. This fund shall be created in the following manner: All moneys at present remaining in the hands of any unincorporated police relief committee or association; all moneys arising from the sale of unclaimed personal property; all fines assessed against delinquent officers by any board of police commissioners; all monthly, annual or periodical assessments of members, as may be provided for by the rules of said association; all percentages of rewards allowed to members of any police force under the regulations of its department, together with a fee of fifty cents for each and every bond taken by any police officer for the appearance of any person charged with violating any city ordinance, which said officer is authorized then and there to collect; all of which moneys herein designated shall be paid to the treasurer of said relief association. And in addition, members of said relief association shall be allowed witness fees in all cases in all courts of record; also,

in all municipal or city police courts, coroners' inquests, justice of the peace courts, whenever attending therein in matters pertaining to the discharge of their duties as witnesses; said witness fees to be collected solely by such officer as may be designated and authorized to collect the same, under the corporate authority of said relief association, and for its exclusive benefit; and no judge, justice of the peace or presiding officer of said courts or tribunals shall have power to remit any witness fees legally belonging to any member of said relief association, organized and existing as aforesaid. (R. S. 1889, § 2886.)

SEC. 1487. Who may form—fire department.—Any fire department existing by authority of the laws of this state, or any municipal authority thereof, in any city or county in this state having a population of fifty thousand inhabitants or over, is hereby authorized and empowered to form a pension fund and relief association under the general incorporation laws of this state in relation to benevolent associations, and to create a fund for the purpose of pensioning retired firemen, and affording relief to members of such fire department when sick, or who may become disabled in the service, and to provide a fund for the relief of the families and other dependents of such firemen in case of death, under such rules and regulations as may be enacted by such fire department pension fund and relief association, not inconsistent with this article or the laws of this state in relation to benevolent associations. (R. S. 1889, § 2887.)

SEC. 1488. Who may become members.—All members of any such fire department in any such city or county in this state shall become members of the fire department pension fund and relief association, and may continue in full membership in such association after having been retired from the department and pensioned by the association. (R. S. 1889, § 2888.)

SEC. 1489. May admit honorary members.—Any such association may provide for the admission of honorary members in such manner and under such conditions as may be set forth in their articles of association and incorporation. (R. S. 1889, § 2889.)

SEC. 1490. Funds to create fire department pension fund.—The funds to create the fire department pension fund and relief association in any city or county in this state, as aforesaid, shall be created, realized and secured from the following sources: All money at present remaining in the hands or under the control of any unincorporated fire department, benevolent or relief association in any such city or county; all initiation fees and dues from the active and honorary members; all moneys that may be derived by bequest or appropriation from individuals, companies, corporations or municipalities; all moneys derived from citizens or others for services rendered by any such fire department to such citizens or others for pumping out cellars, filling cisterns, removing dangerous walls, buildings or other obstructions that are injurious or dangerous to the inhabitants of any such city or county, and the emoluments from all such other work as may be permitted by any such city or county to be performed by the department outside of its legitimate and proper duties; all fines and penalties imposed upon members of the department for any dereliction of duty, or violation of any rule or order or regulation of the department, after any such rule, order or regulation has been properly promulgated and made known to the members of the department; all donations received by the chief or any other officer of the department from any citizen or other persons or corporations for and in the name

of the department; all moneys derived from lectures, entertainments, picnics, etc.; all moneys derived by any such city or county from the sale of all condemned stock, horses, mules, condemned hose or other fire apparatus of every kind or description; all rejected or surplus material or article of value coming into the department and disposed of and sold by the officers of any such city or county; all moneys levied and collected by any court as fines for the violation of the laws in relation to the construction of any certain class of buildings of prohibited material within the fire limits of any such city or county as established by law or ordinance; all fines derived from any violation of any building law or ordinance in any such city or county; all fines and penalties that may be collected for violating the municipal laws or ordinances regulating the quantity, quality or storage of petroleum, coal oil, gasoline, turpentine, or any product thereof, all hemp, cotton, powder, giant powder, dynamite or other combustible or inflammable substance, liquid or material that is considered extremely dangerous or hazardous; all moneys derived from licenses or privileges to store or manufacture coal oil, petroleum, gasoline, turpentine, powder, giant powder, dynamite, hemp, cotton or other combustible or inflammable substance, liquid or material that is considered extremely dangerous or hazardous; and all moneys derived from any or all other sources that may by any law or ordinance of this state, or any municipality thereof, be set apart for the benefit of any such fire department pension fund and relief association in any city or county in this state: *Provided, however,* that no money or property owned, belonging to or controlled by any municipal corporation in this state shall be transferred or the title or possession thereto disturbed by any provision of this article, until the same is provided for by city ordinance duly enacted. (R. S. 1889, § 2890.)

SEC. 1491. Who to be treasurer.—The city or county treasurer of any such city or county as aforesaid may be the treasurer of any such association existing in any such city or county, and shall be required as such treasurer to furnish such reasonable bond as may be required by such association. (R. S. 1889, § 2891.)

ARTICLE XVI.

BOOMING AND RAFTING COMPANIES.

SECTION

- 1492. Who may incorporate, and for what purpose.
- 1493. Article shall set out, what—be acknowledged, how—filed, where.
- 1494. Powers of corporation—lien—individuals have same privileges.
- 1495. Action on lien.
- 1496. May break jams—expenses—liens.
- 1497. Shall report, what—penalty.
- 1498. Governed by general corporation law.
- 1499. Shall not obstruct crossings and ferries.
- 1500. Damage for back-water—attorneys' fees.
- 1501. Taxation.
- 1502. Shall mark logs, how.

SECTION

- 1503. Marks recorded.
- 1504. Marks—duty of clerk—fees.
- 1505. Mark—presumption of ownership.
- 1506. Defective mark—jurisdiction of clerk—fees.
- 1507. No one shall take boomed or floating timber.
- 1508. Nor cut off mark.
- 1509. Nor place his own mark thereon.
- 1510. Nor forge other person's marks.
- 1511. Penalty, last four sections.
- 1512. Damages.
- 1513. Power of search—penalty for obstruction of search.
- 1514. May recover drifted timbers, how.
- 1515. Liability of directors for paying unearned or unreasonable salary.

SEC. 1492. Who may incorporate, and for what purposes.—Any five or more persons who shall have associated themselves by articles of agreement in writing, according to the laws of this state, for the purpose of engaging in and carrying on the business of running, driving, booming and rafting logs, timber, lumber and other floatables

on any of the streams or waters in this state, or for the construction of booms across or in any such waters or streams, may be incorporated under any name or title designating such business, and by such name shall be capable of suing and being sued in any court in this state. (R. S. 1889, § 2892.)

SEC. 1493. Articles shall set out, what—be acknowledged, how—filed, where.—The articles of agreement mentioned in section 1492 shall set out: First, the corporate name of the proposed corporation, which shall not be the name of any incorporation heretofore incorporated in this state, or an imitation of such name; second, the name of the city, town or county in which the corporation is to be located, the river or stream on which it is proposed to conduct its business, or across or in which it is proposed to construct such boom or booms, giving the section, township and range of the location of such booms; third, the amount of the capital stock of the corporation, the number of shares into which it is divided and the par value thereof, and that the same has been *bona fide* subscribed and one-half thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors; fourth, the names and residences of the several shareholders and the number of shares subscribed by each; fifth, the number of the board of directors, and the names of those agreed upon for the first year; sixth, the number of years the corporation is to continue, which in no case shall exceed fifty years; seventh, the purposes for which the association is formed. The articles of agreement shall be signed and acknowledged by the parties thereto before some officer authorized by law to take the acknowledgment of deeds to lands in this state, and recorded in the office of the recorder of deeds of the county in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state. (R. S. 1889, § 2893.)

SEC. 1494. Powers of corporation—lien—individuals have same privileges.—Every such corporation shall by their corporate name, have power to acquire, use and hold all such real and personal estate, by lease or purchase, as shall be necessary for the purpose of carrying on the business of such corporation, with the full right of selling and disposing thereof when not further needed. They shall have power and the right, in any of the rivers, creeks or waters of this state, named in their articles of association, to construct, use and maintain all necessary booms for the business of such corporation: *Provided, always*, that they shall have first obtained from the owner or owners of the shores along which or in front of which they desire to construct such boom or booms, either by lease or purchase, their permission to erect and maintain such boom or booms in front of his or their lands; *and provided further*, that such boom or booms shall be so constructed and used as to allow the free passage of boats, vessels, crafts, logs, timber, lumber or other floatables along such waters. They shall have power to make all necessary contracts for the driving, booming, rafting and running logs, lumber, timber and other floatables. They shall have power to carry on the business of driving, booming, rafting and running logs, timber, lumber or other floatables, or either of them, as they may from time to time determine, and for the use of said boom or booms in the care and custody of logs, timber, lumber and other floatables, in all cases where no rate is fixed by contract, to charge and collect a uniform and reasonable sum for boomage; and for such boomage,

and for driving, rafting or running of logs, timber, lumber and other floatables, such corporation shall have a lien on the logs, timber, or other floatables, driven, boomed, rafted or run; and such corporation shall be entitled to retain the possession of such logs, timber, lumber or other floatables, or so much thereof as may be necessary to satisfy the amount of such boomage and reasonable charges for driving, rafting or running of logs, timber, lumber and other floatables, and all expenses for taking care of the same until the same shall be determined, satisfied and paid in the manner hereinafter prescribed; and whenever any such logs, timber, lumber or other floatables shall be delivered by any duly authorized corporation or person to any other duly authorized corporation or person, for transportation or delivery at its proper destination, such lien shall remain a lien upon such logs, timber, lumber or other floatables, for the benefit of such first corporation or person, until the same shall have reached its proper destination; and said first corporation or person shall be deemed not to have lost its lien on the said logs, timber, lumber and other floatables, and shall have the power to take and retain possession of the same, in common with any other party having a subsequently acquired lien thereon, or so much of the same as may be necessary to satisfy the amount of such boomage, and reasonable charges for driving, rafting or running of logs, timber, lumber or other floatables, until the same shall be determined, satisfied and paid in the manner hereinafter prescribed. Individuals and copartnerships shall be entitled to all the privileges provided by this article for corporations, and shall be subject to the same liabilities and restrictions. (R. S. 1889, § 2894.)

SEC. 1495. Action on lien.—Any such corporation claiming any lien, as provided for in section 1494, may bring an action against the owner of such property, to determine and satisfy the amount of such lien. The proceedings in such action shall be in accordance with the practice of the courts in which such action is commenced, as provided in article two of the chapter on *Liens*, for actions to enforce liens for keeping horses and other animals; and the property so held may be levied upon and sold to satisfy any judgment which may be rendered against such owner, together with all costs of such suit, including the costs and expenses of providing for the care and safety of such property. (R. S. 1889, § 2895.)

SEC. 1496. May break jams—expense—lien.—If any corporation, person or persons shall put or cause to be put into any river, creek or stream in this state, or shall have in any such river, creek or stream any logs, lumber or timber for any purpose, and shall not make adequate provisions and put on sufficient force for driving or running the same, or for breaking jams of such logs, timber or lumber in or upon such river, creek or stream, or at the head of or along the side of any boom, or shall for want of adequate provision or want of sufficient force, allow such logs, timber or lumber to jam or accumulate in said river, creek or stream, or at the head of such boom or booms, or along the side thereof, thereby obstructing the navigation or passage by logs or rafts of such river, creek or stream, it shall be lawful for any corporation, at the head of or along the side of whose boom or booms such jam or accumulation of logs, timber or lumber shall form, or any person or corporation desiring to navigate or pass with rafts, logs or other timber the point in said stream where such obstruction may be, to cause such jams to be broken at the expense of the person or corporation owning such logs, lumber or timber, and such owner shall be lia-

ble to such corporation, person or persons for the cost and expense of breaking such jams, and such corporation, person or persons shall have a lien on such logs, lumber or timber for the cost and expense thereof, and may proceed to collect such charges, costs and expenses in the same manner and in all respects as provided by section 1495 of this article, and may hold a sufficient amount of such logs, lumber or timber to satisfy such charges and expenses. (R. S. 1889, § 2896.)

SEC. 1497. Shall report, what—penalty.—The president and secretary of every such corporation shall annually, in the month of April, make a report, duly verified by the oath of the officer signing the same, and containing: First, the amount of capital stock of the corporation actually paid in; second, the amount invested in real and personal estate; third, the amount of debts and credits of the corporation, and the present value of its real and personal estate as near as may be; fourth, the total amount of receipts from all sources and expenditures for all purposes of the corporation for the preceding year; fifth, the amount of dividends declared and paid to stockholders on the business of such preceding year; sixth, the surplus remaining after the payment of such dividends and expenses; seventh, the name of each stockholder and the number of shares held by him at the date of such report. Every such report shall be filed with the secretary of the association, and also in the office of the county clerk of the county in which the business office of said association shall be located, and shall be open at all reasonable times to the examination of any and every stockholder and all other persons interested in the facts therein stated; and if the said president and secretary of such corporation shall intentionally neglect or refuse to make or to file such report, they shall severally be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars. (R. S. 1889, § 2897.)

SEC. 1498. Governed by general corporation law.—Corporations organized under this article shall, in all respects wherein no provision is made, be governed by the provisions of article I of this chapter. (R. S. 1889, § 2898.)

SEC. 1499. Shall not obstruct crossings and ferries.—No corporation, person or association of persons having constructed a boom across or in any of the streams or waters of this state shall receive or assent to the accumulation of any logs, lumber or other timber therein when the same shall obstruct the crossing of any public highway over such stream, or the passage of any ferry boat at any licensed ferry thereon; and for every violation of the provisions of this section such person or corporation shall, on conviction, be punished by a fine of not exceeding two hundred dollars. (R. S. 1889, § 2899.)

SEC. 1500. Damages for back-water—attorney's fee.—Every corporation, person or association of persons who shall construct a boom across or in any of the streams or waters of this state shall be liable for all damages arising from back-water or overflow caused by the construction of such boom or the accumulation of logs, lumber or other floatables therein, and in all cases where judgment is rendered in any court for any damages occasioned as herein provided, the court shall allow the plaintiff a reasonable attorney's fee, to be taxed as costs in the case. (R. S. 1889, § 2900.)

SEC. 1501. Taxation.—All personal property of any corporation organized under this article shall be liable to taxation in the county where it may be used or permanently located. (R. S. 1889, § 2901.)

SEC. 1502. Shall mark logs, how.—Every person, copartnership or corporation, who shall put any logs, lumber or other timber into any river or other waters in this state, for the purpose of rafting or floating the same to any other place, shall have some mark or marks previously selected, approved and recorded in the manner hereinafter specified, impressed in a conspicuous place upon the end or surface of each of said logs, piece of lumber or stick of timber so put into any of the aforesaid waters. (R. S. 1889, § 2902.)

SEC. 1503. Marks recorded.—Before any such mark shall be used, it shall be the duty of every such person, copartnership or corporation intending to use the same, to cause a diagram and complete description thereof, signed by such copartnership, person or corporation, to be recorded in the office of the clerk of the county court of each county through which such river or water may run. Such mark shall be different from any mark which shall have been prior thereto adopted and recorded by any other person or corporation in any such county. (R. S. 1889, § 2903.)

SEC. 1504. Marks—duty of clerk—fees.—The clerk of the county court shall examine such mark and diagram, and if different from any other mark recorded in his office, he shall record the same in a well-bound book, which shall be open to the inspection of any person requiring it, and the clerk shall be allowed the sum of fifty cents for recording each mark, to be paid in advance by the party having the same recorded. (R. S. 1889, § 2904.)

SEC. 1505. Mark, presumption of ownership.—All logs, lumber or other timber, having any such recorded mark impressed or fixed thereon, shall be presumed to belong to the person or corporation in whose name said mark shall have been recorded. (R. S. 1889, § 2905.)

SEC. 1506. Defective mark—jurisdiction of clerk—fees. Upon complaint made to the county clerk that any mark recorded is similar to a mark recorded in said county prior thereto, or that such mark is defective and not in compliance with this statute, and upon ten days' written notice to the party using such similar or defective mark, which notice shall state the time of the hearing thereof, the clerk shall have jurisdiction to hear and try the question whether said mark is similar to a prior recorded mark, or is defective, and if so found he shall enter his judgment in the record of marks, and thereafter the party shall have no right to use the same, or if he finds the mark is not similar nor defective he shall enter such finding, and either party may appeal from such decision to the circuit court of the county, in the same manner and with the same effect as appeals are prosecuted from the judgment of justices of the peace; like fees and costs shall be allowed in such proceedings as in trials in justices' courts, to be paid by the losing party, and recovered by execution, which may be issued by said clerk. (R. S. 1889, § 2906.)

SEC. 1507. No one shall take boomed or floating timber. No person other than the owner thereof, or his agent, shall take possession, drive, run, or in any way dispose of any log, spile, railroad tie, or other timber or lumber floating upon, lying or being in any river or other waters in this state, or in any boom therein, or on the shores or banks thereof. (R. S. 1889, § 2907.)

SEC. 1508. Nor cut off mark.—No person other than the owner or his agent shall cut off, cut out, alter, deface or destroy any mark made upon any log, railroad tie or other timber or lumber lying

or being in any of the rivers or waters of this state, or in any boom therein, or on or near the shores or banks thereof. (R. S. 1889, § 2908.)

SEC. 1509. Nor place his own mark thereon.—No person other than the owner or his agent shall make or place, or cause to be made or placed, any mark upon any log, railroad tie or other timber or lumber upon or in any river or other waters in this state, or in any boom therein, or on or near the shores or banks thereof. (R. S. 1889, § 2909.)

SEC. 1510. Nor forge other person's marks.—No person shall falsely make, forge or counterfeit any such mark, or use any mark in marking logs or other timber, knowing the same to be the mark of another person or corporation. (R. S. 1889, § 2910.)

SEC. 1511. Penalty last four sections.—Any person violating any of the four preceding sections shall be deemed guilty of a misdemeanor, and on conviction, punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment. (R. S. 1889, § 2911.)

SEC. 1512. Damages.—Any person who shall, by himself or employe, without the consent of the owner thereof, take and convert to his own use, any log, pile, railroad tie or other timber or lumber not his own, floating upon, lying or being in any river or other waters in this state, or in any boom therein, or on or near the shores thereof, shall be liable in double damages, to the party injured, to be recovered by civil action by the owner thereof. (R. S. 1889, § 2912.)

SEC. 1513. Power of search—penalty for obstruction of search.—It shall be lawful for any person or corporation owning any logs, spars, railroad ties or other timber or lumber, or the agent of any such person or corporation, to search and examine any rafts of logs and any railroad ties, logs, lumber or other timber, whether in rafts or booms, or wherever situate in any of the waters of this state, or on the shores thereof, to ascertain whether any logs, timber or lumber belonging to such person or corporation may be there found; and any person who shall willfully obstruct or hinder any person engaged in such search or examination shall be punished by a fine of not less than twenty nor more than five hundred dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment. This section shall not be deemed to give authority to break any rafts, or land or otherwise stop any such rafts, logs or other timber, without first obtaining a writ or warrant therefor from some court having jurisdiction to grant the same. (R. S. 1889, § 2913.)

SEC. 1514. May recover drifted timbers, how.—Whenever any logs, lumber, railroad ties, boards or other timber, in rafts or otherwise, shall be drifted or float upon any island in any of the waters or streams of this state, or upon the banks or shores of such waters or lands adjacent thereto, the owner of such logs, lumber, railroad ties, boards or other timber, or any person or corporation entitled to the possession thereof, may, at any time within six months, remove the same by paying or tendering to the owner of such bank, shore or lands such reasonable damages as may have been caused by such occupancy and removal, and if the amount of such damages cannot be agreed upon, may make and deliver to the owner of such shores, banks or lands a bond in such penal sum and with such sureties as shall be approved by the clerk of the circuit court of the county, conditioned for the payment of all damages which may have been caused by the drifting or floating of such logs, railroad ties, boards, lumber or other tim-

ber upon such shores, banks or lands, and the removal thereof. Such bond shall be fixed by the clerk upon the affidavit of the party, or his agent or attorney, owning such lumber, logs, railroad ties or other timber, of the value and amount of the same, and the damages sustained to such land, and that will be sustained by such removal, and such bond shall be in at least double the amount of the probable damages to such land: *Provided*, that the owner of the land may file with the clerk a like affidavit of the probable amount of such damages, which shall also be considered; and upon the execution and delivery of such bond, such owner or his agent may enter upon said land and remove such lumber, logs, ties or other timber therefrom, and thereafter any action for such damages shall be brought upon such bond. If such lumber, logs, ties, boards or other timber shall not be removed within six months from the time the same is drifted or floated upon said land, the owner thereof shall be deemed to have forfeited all right thereto to the owner of the land where the same may have drifted or lodged: *Provided, however*, that no forfeiture shall accrue under this section until the owner of said land or his agent shall have given thirty days' notice, by publication in some weekly newspaper published in said county, or if no newspaper is published in said county, then in the nearest weekly newspaper thereto, giving a description of such logs, lumber or other timber, the marks on the same, if any, and the date when drifted or lodged upon said land as near as may be known, and the place where drifted or lodged; and the expense of such publication shall be paid by the owner of such logs, lumber, ties or other timber, if removed by him: *Provided*, that such notice shall not be given until such lumber, logs, ties or other timber shall remain on said land for thirty days; and *provided further*, that if the land upon which such logs, ties, lumber or other timber may be lodged or drifted shall be improved, cultivated lands, the notice herein provided for may be given at any time after the same has remained on said land ten days, and in such case the forfeiture herein provided for shall be deemed to be complete after the lapse of three months from the time such logs, lumber, ties or other timber may be drifted or lodged on such land and remain unremoved; and *provided further*, that from lands where it is desired and needful to at once cultivate, the owner or occupier thereof may immediately remove such logs, lumber or other timber to some other place on his said land not needed or desired for use or cultivation, where the same shall be subject to the provisions of this section as upon improved, cultivated lands, and the reasonable cost of such removal shall be deemed a portion of the damages herein provided for; but such removal shall be made so far as practicable as to facilitate the restoration of such logs, lumber or other timber into the stream from whence it came. (R. S. 1889, § 2914.)

SEC. 1515. Liability of directors for paying unearned or unreasonable salary.—If the directors of any corporation organized under the provisions of this chapter and article shall pay any of their officers, managers or superintendent any unearned or unreasonable salary, such director or directors shall be jointly and severally liable to each and every stockholder, in proportion to stock held, for the amount of unearned or unreasonable salary so paid, and the same may be recovered by law in any court having jurisdiction: *Provided*, that any director not voting for the payment of such salary, but protesting against it, shall in no manner become liable. (Laws 1895, p. 100.)

ARTICLE XVII.

EXPRESS COMPANIES—REGULATING CHARGES OF.

SECTION

1516. Express companies declared common carriers.
1517. To file schedules and rates of charges with railroad and warehouse commissioners.
1518. Board of railroad and warehouse commissioners to regulate classifications and charges.

SECTION

1519. Discrimination prohibited.
1520. Railroad and warehouse commissioners to investigate charges, etc.
1521. Duty of attorney-general.
1522. Governor may appoint additional counsel.

SEC. 1516. Express companies declared common carriers.—All companies or corporations doing an express or carrying business over any of the railroads now operated and run or which may be hereafter operated and run in the state of Missouri, are hereby declared to be and are common carriers within the meaning of the constitution. (Laws 1893, p. 122.)

SEC. 1517. To file schedules of rates of charges with railroad and warehouse commissioners.—Within sixty days after this article shall become a law, all express companies or corporations doing an express carrying business over any of the railroads now operated and which may hereafter be operated in the state of Missouri, shall be and are hereby required to file with the state board of railroad and warehouse commissioners a complete and specific schedule of their classifications of all matter and merchandise received by them for carriage and transportation, together with a detailed statement of their rates of charges in each of the classes into which their freight and express matter, as above, is divided; and if there be any rules or regulations which change, determine or affect any part of the aggregate of such rates and charges, such rules and regulations shall accompany such schedule; and if any two or more of such express companies doing business in this state as aforesaid, have joint rules and regulations and charges for the exchange of articles of express or other matter so carried by them, the said rules and regulations and schedule of charges shall also be filed with the said board of railroad and warehouse commissioners within the time specified above. (Laws 1893, p. 122.)

SEC. 1518. Board of railroad and warehouse commissioners to regulate classifications and charges.—The board of railroad and warehouse commissioners, when said schedule of classifications and charges shall have been filed as above required, shall, if said classifications and charges be deemed unjust and unreasonable, have full power and authority to alter and amend the classifications, and to establish and fix maximum rates of charges (and such rates established by the railroad and warehouse commissioners shall be *prima facie* evidence that such rates are reasonable) for all kinds and classes of such articles as may be received for carriage and transportation by any such express company or corporation doing business in this state, having regard to the distance or distances any such articles may have to be so carried or transported, and to compel the said companies or corporations to exchange business at all railroad crossings or junctions, when freight or passenger depots are or may be established, and to establish equitable rates between such companies or corporations so exchanging articles in transit. And no company or

corporation doing an express business in this state as aforesaid shall have power to alter or amend the schedule of classifications or rates of charges, when so fixed or approved by said board of railroad and warehouse commissioners, without the consent and approval of said board. (Laws 1893, p. 122.)

SEC. 1519. Discrimination prohibited.—All express companies or corporations doing business as aforesaid are hereby prohibited from discriminating in favor of any particular shipper in any manner whatever, directly or indirectly, by any special rate, rebate, drawback or other device, and it shall be unlawful for any such company or corporation to give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage with respect to such transportation; and all such express companies or corporations shall afford equal facilities for the interchange of traffic between their respective lines, and shall not discriminate in their accommodations, rates, classifications or charges between such connecting lines and places. (Laws 1893, p. 122.)

SEC. 1520. Railroad and warehouse commissioners to investigate charges.—Said board of railroad and warehouse commissioners, either upon their own motion or upon the complaint of any individual, firm, company or corporation, shall have full power to investigate all charges of any violations of any of the above provisions, and shall have power to send for persons and papers, administer oaths and examine and compel the attendance of witnesses, and if, in their judgment, there be reasonable evidence of any violation of any of the provisions of this act, said board of railroad and warehouse commissioners shall transmit such evidence to the attorney-general of the state. (Laws 1893, p. 122.)

SEC. 1521. Duty of attorney-general.—The attorney-general, on the receipt of such evidence, shall immediately proceed against the offending company or corporation in the name and to the use of the state, in any court having competent jurisdiction; and if on the trial of such cause any company or corporation doing business as aforesaid shall be found guilty of violating any of the provisions of sections 1518 and 1519 of this article, the said company or corporation shall be fined in a sum of not less than two hundred dollars and not more than one thousand dollars. And if any express company or corporation doing business as aforesaid shall fail, neglect or refuse to file its schedule of classifications and rates of charges as required by section 1517 of this article, said company or corporation shall forfeit to the state the sum and amount of two hundred dollars for each and every day it shall neglect, fail or refuse to file said schedule—said sum to be recovered by civil suit in any court having competent jurisdiction, said suit or suits to be brought by the attorney-general of the state, in the name of the state, at the relation and to the use of the board of railroad and warehouse commissioners. (Laws 1893, p. 122.)

SEC. 1522. Governor may appoint additional counsel. The governor may, at the solicitation of the attorney-general, appoint additional counsel, when he may deem it necessary for the vigorous prosecution of said suit or suits as herein provided for, and any sum or amount so recovered in any suit or suits shall be paid into the treasury of the state to the credit of the general revenue fund. (Laws 1893, p. 122.)

ARTICLE XVIII.

WORLD'S FAIR AND CENTENNIAL EXPOSITIONS.

SECTION

1523. Who may form corporation—articles of agreement, shall set forth, what.
1524. Articles of agreement, how signed and acknowledged—secretary of state to issue certificate—rights, powers and privileges of corporation.
1525. Capital stock.
1526. Board of directors, how and when elected—time of meeting—term of office.
1527. Officers of board, compensation of—rules and by-laws.

SECTION

1528. Purposes for which corporation may be created.
1529. Capital stock, increased how.
1530. Dividends.
1531. Corporation may acquire and dispose of property—borrow money and issue bonds, etc.
1532. May condemn property.
1533. May dissolve, when and how.
1534. Certain property exempt from taxation.
1535. Stock may be subscribed for by other corporations.

SEC. 1523. Who may form corporation — articles of agreement shall set forth, what.—Any twenty-five or more persons, who shall have associated themselves by articles of agreement, in writing, as provided by law, for the purpose named in section 1528 of this article, may be incorporated under any name or title designating the business to be transacted. The articles of agreement aforesaid shall set forth: First, the corporate name of the proposed corporation, which shall not be the name of any other corporation heretofore incorporated in this state for similar purposes, or an imitation of such name; second, the name of the city, town or county in which the corporation is to be located; third, the amount of the capital stock of the corporation, the number of shares and the par value thereof, which shall not be less than ten dollars nor more than one hundred dollars per share, and that not less than one-half of the entire amount thereof has been subscribed in good faith, and ten per cent. of the amount subscribed actually paid up in lawful money of the United States, and is either in the possession of the persons named as the first board of directors, or has been disbursed for preliminary expenses of organization; fourth, the names and places of residence of the first fifty of the subscribing shareholders and the number of shares subscribed by each; fifth, the number of the board of directors and the names of those agreed upon for the first year; sixth, the number of years the corporation is to continue, which in no case shall exceed ten years; seventh, the purposes for which the corporation is formed. (New section.)

SEC. 1524. Articles of agreement, how signed and acknowledged — secretary of state to issue certificates—rights, powers and privileges of corporation.—The articles of agreement shall be signed and acknowledged by the parties thereto, and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed in the office of the secretary of state, who shall thereupon give a certificate that said corporation has been duly organized, and such certificate shall be taken by all courts of this state as evidence of the corporate existence of such corporation. The persons so acknowledging such articles of association, and their successors, shall, for the period designated in such articles of association not to exceed ten years next succeeding the issuing of such certificate by the secretary of state, be a body corporate, and by such

name they, and their successors, shall be entitled to have, possess and enjoy all the rights, powers, and privileges conferred by law upon corporations, subject to the provisions of this article. (New section.)

SEC. 1525. Capital stock.—The capital stock of any corporation created under this article shall be not less than five hundred thousand dollars, nor more than twenty million dollars, at least one-half of the entire amount of capital stock to be subscribed for in good faith, and not less than ten per cent. of the amount subscribed actually paid up in lawful money of the United States at the time of filing of the articles of association, and the remaining ninety per cent. to be subject to the call of the board of directors in such sums and at such times as may be agreed upon by the subscribers in the articles of association. (New section.)

SEC. 1526. Board of directors, how and when elected—time of meeting—term of office.—The property and business of the corporation shall be controlled and managed by a board of directors, not less than twenty-five nor more than seventy-five in number, who shall be stockholders of the corporation and the majority of whom shall be *bona fide* citizens of this state, to be elected annually by ballot by the shareholders of the corporation, for three years, in the manner hereinafter prescribed, at such time and place as shall be directed by the by-laws of the corporation, of which time and place at least two weeks' notice shall be published in some newspaper, published at least once a week, in the city or county in which the corporation is located. Such election shall be made by such of the shareholders as shall attend in person or by proxy in writing. In case the election shall not be made on the day named, the corporation shall not thereby be dissolved, but an election may be held at any other time agreeable to the by-laws of the corporation, and the persons so elected shall hold their offices until their successors are elected and qualified. In case of the death or resignation of one or more of said directors, the survivors shall fill the vacancy until the next election. As soon as practicable and within two weeks after the organization of such corporation, the persons named in the articles of association to compose the first board of directors shall meet and divide said board by lot into three equal classes, the first of which shall hold office for one year, the second for two years and the third for three years, and at each annual election of shareholders held thereafter only such number of directors shall be elected as may be necessary to fill the places of those whose terms shall have then expired, and places made vacant by death or resignation. (New section.)

SEC. 1527. Officers of board, compensation of—rules and by-laws.—The directors shall elect from their number a president, one or more vice-presidents, a director general, a secretary and treasurer, and may appoint such other officers and agents and committees as they may deem necessary for the proper conduct of the business of the corporation; they shall fix the compensation for services to be rendered by such officers and agents, and a vote of a majority of all the members of the board shall be required for the appointment of any officer receiving a salary, or for the purpose of fixing or increasing the salary of any officer or agent. The board of directors of any such corporation shall have power from time to time to adopt such by-laws, rules and regulations as they may think

proper for the election of officers, for prescribing their respective powers and duties, and the manner of discharging the same; for the appointment and prescribing the duties of committees and generally for transacting, managing and directing the affairs of the corporation: *Provided*, that such by-laws, rules and regulations shall not be repugnant to the provisions of this article nor to the constitution and laws of this state or of the United States. (New section.)

SEC. 1528. Purposes for which corporation may be created.—Corporations may be created under this article for any one or more or all of the following purposes, to wit: First, to inaugurate and hold national, international or world's fairs, centennial and other expositions, either commemorative of any historical event, or for the purpose of promoting improvement in the arts and sciences, professions and trades, by the exhibition of products of the arts, industries and manufactures, and of the soil, mine and sea, or for all of said purposes; second, to promote and encourage literature, history, science, information or skill among the learned professions, intellectual culture in any branch or department or the establishment of museums, libraries, art galleries or the erection of public monuments, commemorative of state or national historical events or persons, or for all of said purposes; third, in general to promote, establish and maintain any institution or organization which tends to the public benefit in relation to any or several or all of the objects above enumerated and whatever may be incidental thereto: *Provided*, that the powers conferred by subdivisions second and third of this section shall not be exercised by any corporation organized under this article unless the main purposes of the organization of such corporation shall be those specified in subdivision first of this section. (New section.)

SEC. 1529. Capital stock increased, how.—Any corporation formed under the provisions of this article may increase its capital stock to any amount within the limit of this article in the manner provided in section 962, article 1, chapter 12, Revised Statutes, 1899, but all such increase of capital stock shall be subscribed for in good faith, and not less than ten per cent. thereof shall be fully paid up in lawful money of the United States, at the time of filing the certificate of increase; and the remaining ninety per cent. of such increase shall be subject to the call of the directors. (New section.)

SEC. 1530. Dividends.—No dividends shall be declared or paid upon the stock of such corporations until the board of directors thereof shall have caused an examination to be made of the assets and sureties, and shall find that the amount of such dividend proposed to be paid has been actually earned, and that all obligations matured or unmatured of said corporations, have been either fully paid or provided to be paid at maturity; and no dividend shall be declared or paid unless authorized by a majority vote of the whole board of directors at a regular meeting. (New section.)

SEC. 1531. Corporation may acquire and dispose of property—borrow money and issue bonds, etc.—Any corporation formed under the provisions of this article shall have the power to acquire by purchase, lease, condemnation, gift or otherwise, all such real estate, improved or unimproved, or any interest therein, and all such other property of any kind whatsoever, as may

be necessary or incident to the carrying out of the purposes of its organization, and to hold, control, manage and dispose of such real estate and improvements, or any part thereof, or any interest therein, by sale, lease, mortgage, or any other method in the discretion of the board of directors, and to convey the same, or any part thereof or any interest therein, together with any improvement which may be erected thereon, by way of gift or donation for a limited period of time, or in perpetuity of any educational or other institution of a public non-sectarian character; to borrow money, and to that end to issue its notes or bonds, unsecured or secured by mortgage or deed of trust in the nature of a mortgage upon any part or all of its property, real and personal or upon any interest therein, and to guarantee any issue of bonds or other obligations of any other corporation or corporations, which may be hereafter organized as subsidiary to or in connection with such corporation for a purpose germane to the purpose of its own organization; but in all cases where any such guarantee is made, the total amount guaranteed shall be treated in every statement of the condition as an obligation of the corporation so guaranteeing until the same shall be fully paid and discharged; to receive and disburse all such sums of money, and to use, control and dispose of in such manner as may be agreed upon all such property as may be donated to it or placed in its charge by any state or territory, or by the United States, or any foreign government, or by any person, firm or corporation. (New section.)

SEC. 1532. May condemn property.—Any corporation organized under the provisions of this article shall have power to condemn lands or other property, or any interest therein, for any use within the scope of its organization in the same manner and with like effect as is provided in sections 1264, 1265, 1266, 1267, 1268, 1269 1270, 1272 and 1273, article 7, chapter 12, Revised Statutes, 1899, relating to the appropriation of lands for the telegraph, telephone, and other purposes: *Provided*, that any such corporation may appropriate an interest in such lands in fee simple or in less estate, either in quantity or duration be appropriated, it shall be the duty of the commissioners to take into consideration the limited use sought to be acquired in assessing the value of the land or other property, or interest therein appropriated. (New section.)

SEC. 1533. May dissolve, when and how.—Any corporation formed under the provisions of this article shall have the power, whenever a majority of the whole board of directors may determine that the purposes of its organization have been accomplished, to proceed to voluntary liquidation of its affairs, by realizing upon all its assets and discharging its liabilities; and when all its assets shall have been disposed of and all of its liabilities, other than those to stockholders, paid and satisfied, upon filing with the secretary of state a certificate executed by the president and secretary of the corporation by authority of its board of directors, containing a full and complete statement to the effect that all of its assets have been disposed of and all of its known liabilities other than those to stockholders have been paid or satisfied, such corporation shall thereupon become dissolved and its corporate existence shall cease. (New section.)

SEC. 1534. Certain property exempt from taxation.—All the real property of any corporation organized under this article, situated in any incorporated city or town, or within one mile of the

limits of any such city or town to the extent of one acre with the buildings thereon and all of such property one mile or more distant from such cities or towns to the extent of five acres with the buildings thereon, shall be exempt from taxation when and so long as the said property is used exclusively for religious worship, for schools or educational purposes, or for purposes purely charitable, and also all such property, real or personal, of such corporation as may be used exclusively for agricultural or horticultural societies. (New section.)

SEC. 1535. Stock may be subscribed for by other corporations.—Any corporation now or hereafter doing business in this state is hereby authorized and empowered by vote of a majority of its board of directors to subscribe to the stock of any company organized under the provisions of this article, whenever in the judgment of such board of directors it is to the interest of the corporation to do so. (New section.)

ARTICLE XIX.

BOND INVESTMENT COMPANIES.

SECTION

1536. Bond investment companies required to deposit cash or bonds with state treasurer to protect investors.
1537. Failure of domestic corporations to comply, a forfeiture of charter.
1538. Penalty for failure to comply with provisions of article.

SECTION

1539. Receiver, how appointed—powers and duties.
1540. Supervisor, who shall be—powers and duties of.
1541. Attorney-general shall conduct proceedings—fees.

SEC. 1536. Bond investment companies required to deposit cash or bonds with state treasurer to protect investors.—That every corporation doing business in this state as a bond investment company, or company to place and sell bonds, certificates or debentures on the partial payment or installment plan, shall and the same is hereby required to deposit with the state treasurer, in cash, United States or Missouri state bonds, or bonds of any county, municipal township or school bonds, or mortgage bonds secured by deeds of trust on unencumbered real estate which, together with the improvements thereon, shall be worth at least double the amount of said notes, or such parts of each of the above mentioned securities, so that the whole deposit will be equal to the sum of one hundred thousand dollars (\$100,000), and whenever the liabilities of such bonds, certificates or debentures in force on the books of the company shall exceed the sum of one hundred thousand dollars, said company shall make an additional deposit on the first day of January and July of each year a sum sufficient in amount to cover the excess liabilities accrued during the preceding six months, for the protection of the investors in such bonds, certificates or debentures. (Laws 1897, p. 90—f.)

SEC. 1537. Failure of domestic corporations to comply, a forfeiture of charter.—If any company, being a domestic corporation, whether heretofore or hereafter organized, or whether it has heretofore made a deposit with the state treasurer, shall fail for sixty days after the passage of this article, or for thirty days after the organization of such company, to make with the state treasurer the deposit required by this article, it shall be considered to have forfeited its

charter, and shall be proceeded against as hereinafter provided: *Provided, however*, that any such company which has already deposited one hundred thousand dollars in valid securities with the state treasurer shall not be required to make any further deposit under this article, unless the liabilities of its bonds, certificates or debentures in force on the books of the company shall exceed the said sum of one hundred thousand dollars, as provided in section 1536 herein. (Laws 1897, p. 90.)

SEC. 1538. Penalty for failure to comply with provisions of article.—If any officer, agent or representative of such company or companies, whether they be foreign or domestic corporations, shall attempt to place or sell shares, or to transact any business whatsoever in the name or on behalf of such company or companies while they fail or refuse to comply with the provisions of this article, said officer, agent or representative shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than \$100 nor more than \$1,000 for each offense, or be imprisoned in the county or city jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. (Laws 1893, p. 121.)

SEC. 1539. Receiver, how appointed — powers and duties.—In case of the failure of any company covered by this article, the circuit court of the county or city in which the principal office is located, upon the application of one or more shareholders, shall appoint a receiver for such company, whose duty it shall be to wind up its affairs, liquidate its debts and distribute its assets, using therefor, upon the order of the court, the deposit previously made, to secure the shareholders, with the state treasurer; and the state treasurer is hereby authorized to pay out such deposit in accordance with requisitions made upon the state auditor by said receiver and approved by the court, upon the warrant of the state auditor. (Laws 1893, p. 121.)

SEC. 1540. Supervisor, who shall be—powers and duties of.—The supervisor of building and loan associations is hereby made *ex officio* supervisor of bond investment companies. He shall have like power to examine into the affairs of these companies as is now or may be provided by law for the examination of building and loan associations by appointing one or more persons to make such examination, who shall be paid by the companies examined five dollars per day and the necessary expenses. (Laws 1897, p. 90.)

SEC. 1541. Attorney-general shall conduct proceedings —fees.—Proceedings instituted under the provisions of this article shall be conducted by the attorney-general of the state, and in the name of the state of Missouri as plaintiff, at the relation of said supervisor. The jurisdiction of the circuit court and processes, pleadings and proceedings had in the cases instituted under this article, shall be the same as are now provided by law for the winding up and the dissolution of insurance companies, so far as such provisions of law are applicable. The actual expenses of the attorney-general and the fees of the counsel, if the attorney-general deems it expedient to employ counsel, and the actual expenses of the supervisor in the discharge of his duties in the prosecution of the proceedings and the expenses of a receiver shall be allowed by the court and paid out of the assets of the bond and investment company proceeded against. (Laws 1897, p. 90.)

CHAPTER 119.

INSURANCE.

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ARTICLE II.

LIFE AND ACCIDENT INSURANCE.

SEC. 7852. Purposes for which formed.—Any number of persons, not less than thirteen, may associate and form a company for the purpose of making assurance upon the lives of individuals, and every assurance pertaining thereto or connected therewith, and to grant, purchase and dispose of annuities and endowments of every kind and description whatsoever, and to provide an indemnity against death, and for weekly or other periodic indemnity for disability occasioned by accident to the person of the insured; but such accident insurance shall be made a separate department of the business of the life insurance company undertaking it. (R. S. 1889, § 5811.)

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SEC. 7855. Declaration for organizing.—The persons mentioned in section 7852 shall be designated as corporators, and such corporators, desiring to form a company for the purpose of transacting the business mentioned in said section 7852, or any part of the same, shall file in the office of the superintendent of the insurance department a declaration signed by each of said corporators, setting forth the place of residence of each of them, and their intention to form a corporation for the purpose of transacting the business aforesaid, which declaration shall comprise a copy of the charter proposed to be adopted by them; and they shall publish once in each week, or oftener, for at least four weeks, in a newspaper of general circulation, published in the county where such corporation is proposed to be located, a notice of the filing of such declaration, together with a copy of the same. (R. S. 1889, § 5814.)

SEC. 7856. Stock companies—declaration by.—When such corporators propose to form a joint stock company for the purposes designated in section 7852, the charter comprised in the declaration mentioned in the next preceding section shall set forth: First, the name assumed by such corporation and by which it shall be known; second, the place where the principal office for the transaction of its business shall be located; third, the specific kind or kinds of business which it proposes to transact; fourth, the amount of its capital stock, and the number of shares into which it shall be divided, and the manner in which it shall be paid up or secured; fifth, the manner in which the corporate powers granted by this article shall be exercised, showing the number of directors, which shall not be less than nine nor more than thirteen, their powers and duties, the manner of electing them, the mode of filling vacancies, and such other particulars as may be necessary to make manifest the objects and purposes of the corporation, and the manner in which it is to be conducted. (R. S. 1889, § 5815.)

SEC. 7857. To be submitted to the attorney-general.—

Whenever the corporators shall have filed the declaration required by section 7855, and also proof of the publication therein required, by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the superintendent of the insurance department, it shall be the duty of said superintendent to submit such declaration to the attorney-general of this state for examination, and if it shall be found by him to be in accordance with the provisions of this article, and not inconsistent with the constitution and laws of this state and the United States, he shall so certify and deliver it back to the superintendent, who shall cause the said declaration and affidavit, with the certificate of the attorney-general, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, and shall also file a certified copy of the same with the secretary of state, who, upon payment into the state treasury of the tax required by section 956, shall issue a certificate of incorporation, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books for subscription to the capital stock of the company, and keep the same open until the whole amount specified in the charter is subscribed, but it shall not be lawful for such company to issue policies or transact any business of any kind or nature whatsoever, except as aforesaid, until they have fully complied with the requirements of this article. (R. S. 1889, § 5816.)

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SEC. 7860. Mutual companies, declaration by.—

When corporators propose to form a mutual company, for the purpose designated in section 7852, the charter comprised in the declaration mentioned in section 7855 shall set forth: First, the name assumed by such corporation, and by which it shall be known; second, the place where the principal office for the transaction of its business shall be located; third, the specific kind or kinds of business which it proposes to transact; fourth, the number of persons from whom proposals for assurance shall be received, the amount of premiums to be received on deposit, and the amount of cash to be paid on the same, before the company shall begin to do business and issue policies; fifth, the manner in which the corporate powers granted by this article are to be exercised, showing the number of directors, which shall not be more than thirteen nor less than nine, their powers and duties, the manner of their election, the mode of filling vacancies, and such other particulars as may be necessary to make manifest the objects and purposes of the association, and the manner in which it is to be conducted. (R. S. 1889, § 5819.)

SEC. 7861. To be submitted to attorney-general.—

Whenever the corporators shall have filed the declaration required by section 7855, and also proof of the publication therein required by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the superintendent of the insurance department, it shall be the duty of said superintendent to submit such declaration to the attorney-general of this state for examination, and if it shall be found by him to be in accordance with the provisions of this article, and not inconsistent with the constitution and laws of this state, and of the United States, he shall so certify and deliver it

back to the superintendent, who shall cause the said declaration and affidavit, with the certificate of the attorney-general, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, and shall also file a certified copy of the same with the secretary of state, who, upon payment into the state treasury of the sum of seventy-five dollars, shall issue a certificate of incorporation, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books and receive proposals and agreements for assurance and premiums for the same on deposit, and issue receipts therefor, and to keep such books open until the whole amount specified in its charter is received; but it shall not be lawful for such company to issue policies or transact any business of any kind, except as aforesaid, until it has fully complied with the requirements of sections 7862, 7863 and 7879. (R. S. 1889, § 5820.)

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SEC. 7865. Stock and mutual companies, declarations of.—The provisions of sections 7857, 7858 and 7859, relating to the formation of joint stock companies, shall apply, in all respects, to the formation of stock and mutual companies; and a certified copy of the articles shall be filed with the secretary of state, who shall issue a certificate of incorporation, as provided by said sections 7857 and 7861, on payment of the tax on the capital as by said sections required. (R. S. 1889, § 5824.)

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ARTICLE III.

INSURANCE COMPANIES ON THE ASSESSMENT PLAN.

SEC. 7901. Character of insurance.—Every contract whereby a benefit is to accrue to a person or persons named therein, upon the death or physical disability of a person also named therein, the payment of which said benefit is in any manner or degree dependent upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of insurance upon the assessment plan, and the business involving the issuance of such contracts shall be carried on in this state only by duly organized corporations which shall be subject to the provisions and requirements of this article. (R. S. 1889, § 5860, amended, Laws 1897, p. 127—v.)

SEC. 7902. Number of corporators, etc.—Any number of persons, not less than seven, being citizens of the state of Missouri, may, upon application to the circuit court of the county or city in which it is proposed to locate the chief office or place of business, become a body politic or corporate under the name and style designated in the application, for the purpose of doing a life or casualty, or life and casualty insurance business on the assessment plan; said application shall in all cases be accompanied by the articles of association, or agreement, setting forth specifically the objects and purposes of the proposed corporation, as well as the methods and plans by which its business shall be conducted, and upon a hearing of the same,

the court may grant or reject the application as it may deem best. If the application is granted it shall be the duty of the applicant to cause a copy of the said article, with a copy of the decree of the court duly certified by the clerk thereof, and by him indorsed on or attached thereto, to be recorded in the office of the recorder of deeds in the county in which said corporation is located, and then filed in the office of the secretary of state. The secretary of state shall thereupon issue to the applicants aforesaid a certified copy of the said articles, with the several certificates thereon, as filed in his office, which certified copy shall be the charter of incorporation, and thereupon said applicants, their associates and successors shall be created and be a body politic and corporate by the corporate name as aforesaid, and such charter, together with this article, shall be received in all courts and places as legal evidence of the incorporation of the said association, society or company: *Provided*, that no decree shall be made, and no certificate of incorporation issued as aforesaid until the superintendent of the insurance department shall certify that the proposed name of the corporation is not the same and does not resemble the name of any other corporation authorized to do business in this state, to the extent of misleading the public, and further that the society, association or company seeking to be incorporated has secured applications for not less than one hundred thousand dollars insurance, by not less than one hundred persons, and that five thousand dollars in cash has been deposited in bank to the credit of the beneficiary fund of the proposed corporation, and that satisfactory assurances have been given to the said superintendent that the said sum of five thousand dollars will not be used for any other purpose than the payment of death losses or other benefits provided for in the policies or certificates issued by such corporation, but nothing in this article shall prevent any such company or association from engaging in both life and casualty insurance, and placing both a life and casualty clause in the same policy. (R. S. 1889, § 5861, amended, Laws 1897, p. 127.)

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ARTICLE IV.

INSURANCE ON THE THE STIPULATED PREMIUM PLAN.

SEC. 7914. Who may organize—powers.—Any number of persons, not less than seven, a majority of whom being citizens and residents of the state of Missouri, may associate themselves and form a company, for the purpose of making insurance on the lives of individuals, and every insurance pertaining thereto or connected therewith on the stipulated premium plan, as defined and regulated herein, and may provide for indemnity against death or disability of the insured occasioned by sickness, accident, old age or otherwise. (New section.)

SEC. 7915. Articles of agreement—approval of—to be filed, etc.—The persons mentioned in section 7914 of this article shall be designated as incorporators, and such persons shall associate themselves by article of agreement, in writing, duly signed and acknowledged, setting forth: First, the corporate name of the pro-

posed corporation which shall not be the name of any corporation heretofore incorporated or doing business in this state for similar purposes, or any such imitation of such name calculated to mislead the public; second, the name of the city, town or county in which the principal office is located; third, the amount of the capital stock of the corporation: *Provided*, the same be a stock company, the number of shares into which it is divided, and the par value thereof, that the same has been *bona fide* subscribed, and twenty per cent. thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors; the name and place of the several shareholders and the number of shares subscribed by each; fourth, the number of the board of directors or managers, which shall be not less than seven, their powers and duties, and the names agreed upon for the first year; fifth, the number of years the corporation is to continue; sixth, a statement that the company is formed for the purpose of carrying on the business of insurance under the provisions of this article. Said articles of agreement shall be submitted to the superintendent of insurance and attorney-general, and if they are found by these officers to comply with the provisions of this article, they shall approve the same. When approved, they shall be filed and recorded in the office of the secretary of state, who shall issue a certificate of incorporation, upon the receipt of which such persons shall be a body corporate and politic, under the statutes of this state. (New section.)

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SEC. 7930. Reincorporation.—Any domestic life or accident corporation, company or association existing or doing business in this state at the time this article takes effect, may, by the vote of a majority of its board of directors or trustees, accept the provisions of this article and amend its articles of incorporation to conform to the same, so as to cover and enjoy any and all the provisions and privileges of this article the same as if it had been originally incorporated thereunder, and it shall file such amended articles of incorporation in the office of the secretary of state, a certified copy of which shall be filed with the insurance department, and shall thereafter perpetually enjoy the same and be deemed to have been incorporated under this article. Reincorporation, however, shall in no way annul, modify or change any of the existing contracts and liabilities of such corporation and any and all such contracts and liabilities shall continue in force and effect the same as though such corporation had not re-incorporated or qualified under this article, neither shall such reincorporation in any way prejudice, impede or impair any pending action or proceeding or any rights previously acquired. (New section.)

ARTICLE V.

INDUSTRIAL AND PRUDENTIAL INSURANCE COMPANIES.

SEC. 7937. Governed by what provisions.—Every life insurance company or association organized under the laws of this state for the purpose of carrying on and conducting an industrial or prudential life insurance business shall be governed by the following provisions: (Laws 1897, p. 138.)

SEC. 7938. Articles of agreement.—Any number of persons, not less than seven, being citizens and residents of the state of Missouri, may associate and form a joint stock company for the purpose of making assurance upon the lives of individuals upon the industrial or prudential plan, and in connection therewith to grant and dispose of endowments and annuities of every kind and description. Such persons shall associate themselves by articles of agreement, in writing, setting forth: First, the corporate name of the proposed corporation which shall not be the name of any corporation heretofore incorporated in this state for similar purposes or any imitation of such name. Second, the name of the city, town or county in which the corporation is to be located. Third, the amount of the capital stock of the corporation, which shall be at least the sum of 100,000 dollars, the number of shares into which it is divided and the par value thereof, that the same has been *bona fide* subscribed, and twenty per cent. thereof actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors. Fourth, the names and places of the residence of the several shareholders and the number of shares subscribed by each. Fifth, the number of the board of directors or managers, which shall not be less than seven, their powers and duties and the names of those agreed upon for the first year. Sixth, the number of years the corporation is to continue, in no case to exceed fifty years. Seventh, a statement that the company is formed for the purpose of carrying on an industrial insurance business. (Laws 1897, p. 138.)

SEC. 7939. To be signed, acknowledged, recorded — certificate of incorporation.—The articles of agreement shall be signed and acknowledged by the parties thereto and recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located, and a certified copy of such recorded instrument shall be filed with the secretary of state. The secretary of state shall, upon payment of tax required by law, issue a certificate of incorporation, upon the receipt of which such persons shall be a body politic and corporate. (Laws 1897, p. 138.)

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ARTICLE VI.

INSURANCE OTHER THAN LIFE.

SEC. 7945. Number of corporators and kind of business.—Any number of persons, not less than thirteen in number, a majority of whom shall be citizens of this state, may associate and form an incorporation, association or company for the following purposes, to wit: First, to make insurance on houses, buildings, merchandise, furniture, and all kinds of property, against loss or damage by fire, lightning and windstorm; to make all kinds of insurance on ships, steamboats and other vessels and their freight and cargoes, and also on goods, merchandise, produce and all other kinds of property in the course of transportation, whether by land or water, and to lend money on bottomry and respondentia; second, to insure horses, cattle and other live stock against loss or damage by accident, theft, disease or death, or any other unknown contingent event whatever, which

may legally be the subject of insurance; third, to make insurance upon the health of individuals, and against personal injury, disablement or death, resulting from traveling or general accident by land or water; to insure the fidelity of persons holding places of public and private trust, and also to receive on deposit and insure the safe keeping of books, papers, money, stocks, bonds and all other kinds of personal property, and to do any and all other kinds of legitimate insurance business excepting that of life insurance and dealing in annuities, and excepting also the kinds of insurance included in the first and second divisions or classes named in this section; fourth, to insure against loss or damage resulting from burglary, robbery, or attempt thereat, or to insure against loss or destruction of money, securities or other valuables in the course of transportation by registered letter or express: *Provided*, that any company organized, admitted or licensed to do business in this state under the fourth class or division shall confine its business in this state to banks, bankers, brokers, loan or trust companies, city and county treasurers, and such companies shall not issue any policy or policies to any person, firm or corporation in this state other than to banks, bankers, brokers, loan or trust companies, and city and county treasurers; and any company doing business in this state under the fourth class or division, shall set aside a reinsurance reserve of fifty per cent. of its premiums, whether collected in cash or represented by the obligation of its policy-holders as written in its policies. No company shall engage in more than one of the kinds or classes of insurance above mentioned and no company that has been organized to do the business above mentioned in one of the four classes aforesaid shall issue policies or do business connected with the kind of insurance mentioned in either of the other classes. (R. S. 1889, § 5873, amended—b.)

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SEC. 7949. Declaration of stock companies.—When such corporators propose to form a corporation for the purposes designated in section 7945, on the joint stock plan, the articles of incorporation or association comprised in the declaration in the next preceding section shall set forth: First, the name assumed by such corporation, and by which it shall be known; second, the place where the principal office for the transaction of its business shall be located; third, the specific kind or kinds of business which it proposes to transact; fourth, the amount of its capital stock, and the number of shares into which it shall be divided, and the manner in which it shall be paid up or secured; fifth, the manner in which the corporate powers granted by this article shall be exercised, showing the number of directors, which shall not be less than nine nor more than thirteen; and such other particulars as may be necessary to make manifest the objects and purposes of the corporation, and the manner in which it is to be conducted. (R. S. 1889, § 5877.)

SEC. 7950. To be submitted to attorney-general.—Whenever the corporators shall have filed the declaration required by section 7948, and also proof of the publication therein required, by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the superintendent of the insurance department, it shall be the duty of said superintendent to submit such declaration to the attorney-general of this state for examina-

tion, and if it shall be found by him to be in accordance with the provisions of this article, and not inconsistent with the constitution and laws of this state and the United States, he shall so certify, and deliver it back to the superintendent, who shall cause the said declaration and affidavit, with the certificate of the attorney-general, to be recorded in a book kept for that purpose, and shall furnish a certified copy of the same to the corporators, and shall also file a certified copy of the same with the secretary of state, who, upon payment into the state treasury of the tax required by section 956, shall issue a certificate of incorporation, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their charter, and to open books for subscription to the capital stock of the company, and keep the same open until the whole amount specified in the charter is subscribed; but it shall not be lawful for such companies to issue policies or transact any business of any kind or nature whatever, except as aforesaid, until they have fully complied with the requirements of sections 7951 and 7952. (R. S. 1889, § 5878—c.)

* * * * *

SEC. 7953. Mutual fire companies, declaration.— When such corporators propose to form a corporation for the purpose of doing the fire and marine business designated in the first of the three classes of insurance named in section 7945, on the mutual plan, the charter comprised in the declaration mentioned in section 7948 shall set forth: First, the name assumed by such corporation, and by which it shall be known; second, the place where the principal office for the transaction of its business shall be located; third, the specific kind or kinds of business which it proposes to transact; fourth, the number of persons from whom proposals for insurance shall be received, the amount of premiums to be received on deposit, and the amount of cash to be paid on the same, before the company shall begin to do business and issue policies; fifth, the manner in which the corporate powers granted by this article are to be exercised, showing the number of directors and trustees, which shall not be more than thirteen nor less than nine, and their respective powers and duties, and such other particulars as may be necessary to make manifest the object and purposes of the association, and the manner in which it is to be conducted. (R. S. 1889, § 5881.)

SEC. 7954. Declaration to be submitted to attorney-general.— Whenever the corporators shall have filed the declaration required by section 7948, and also proof of the publication therein required, by the affidavit of the publisher of the newspaper in which the publication was made, his foreman or clerk, with the superintendent of the insurance department, it shall be the duty of said superintendent to submit such declaration to the attorney-general of this state for examination; and if it shall be found by him to be in accordance with the provisions of this article, and not inconsistent with the constitution and laws of this state and of the United States, he shall so certify and deliver it back to the superintendent, who shall cause the said declaration and affidavit, with the certificate of the attorney-general, to be recorded in a book to be kept for that purpose, and shall furnish a certified copy of the same to the corporators, and shall also file a certified copy of the same with the sec-

retary of state, who, upon payment into the state treasury of the sum of seventy-five dollars, shall issue a certificate of incorporation, upon the receipt of which they shall be a body politic and corporate, and may proceed to organize in the manner set forth in their articles of incorporation or association, and to open books and receive proposals and agreements for insurance and premiums for the same, and subscriptions to the guarantee fund mentioned in section 7958, if the company proposes to organize with such fund on deposit, and issue receipts therefor, and to keep such books open until the whole amount specified in its articles of incorporation or association is received; but it shall not be lawful for such company to issue policies or transact any business of any kind, except as aforesaid, until it has fully complied with the requirements of the next succeeding sections. (R. S. 1889, § 5882.)

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ARTICLE VII.

GENERAL PROVISIONS.

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SEC. 8006. Increase and reduction of stock.—Any insurance company incorporated under the laws of this state may increase or reduce its capital stock for the purposes, in the manner and to the extent prescribed by law: *Provided*, the board of directors of any company desiring so to increase or reduce its stock shall file with the superintendent of the insurance department a certified copy of the proceedings, both of the stockholders' and directors' meetings, at which it was determined to increase or reduce such stock, and upon being satisfied that the law has been fully complied with, that the proceedings were regular, that the condition and assets of the company justify the increase or reduction, and that the same will not be prejudicial to the interests of the policy-holders, the superintendent shall issue a certificate authorizing said increase or reduction, and showing that the stock of said company has been increased or reduced, the amount to which it is increased or reduced, the par value of the shares; and such certificate shall be filed and recorded as in this chapter is provided for filing and recording the certificates of incorporation; and thereafter such company shall, with such increased or reduced capital, be subject to the same liabilities that it possessed or was subject to at the time of the increase or reduction of its capital; and the charter or certificate of incorporation of such company shall be deemed to be amended in respect to the amount of capital, and the par value and number of shares, so as to conform to such increase or reduction. (R. S. 1889, § 5921.)

SEC. 8007. Increase of stock, conditions of.—Any company that shall increase its capital stock under the provisions of the preceding section shall, in all things, comply with the other provisions of this chapter and its stock shall be subscribed and secured as provided in this chapter for companies incorporating thereunder. (R. S. 1889, § 5922.)

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ARTICLE X.

FARMERS' MUTUAL INSURANCE COMPANIES.

SEC. 8079. Farmers' mutual fire insurance companies exempt from provisions of chapter.—Hereafter all farmers' mutual fire and lightning insurance companies organized in this state for the sole purpose of mutually insuring the property of the members, and for the purpose of paying any loss incurred by any member thereof by assessment, as provided by their constitution and by-laws, are hereby exempted from the provisions of this chapter as applicable to general insurance companies, and nothing therein shall be so construed as to impair or in any manner interfere with any of the rights or privileges of any such companies doing a mutual insurance business in this state as herein provided: *Provided*, that such companies shall do business only in the counties in which they are organized; *and provided further*, that any member of any such company may sue such company the same as if he were not a member thereof; and any such mutual fire and lightning insurance company may incorporate by filing a copy of its constitution and by-laws with the secretary of state, and paying the sum of ten dollars into the state treasury. (R. S. 1889, § 5909, amended, Laws 1891, p. 165—y.)

SEC. 8080. Farmers' mutual tornado, etc., exempt.—That hereafter all farmers' mutual tornado, wind-storm and cyclone insurance companies organized for the sole purpose of mutually insuring the property of the members, and for the purpose of paying any loss incurred by any member thereof by assessment, as provided by their constitution and by-laws, are hereby exempt from the provisions of the insurance laws as mentioned in this chapter; and nothing therein shall be so construed as to impair or in any manner interfere with any of the rights or privileges of any such companies doing a mutual insurance business in this state, as herein provided: *Provided*, that such companies shall do business only in the congressional districts in which they are organized, until they shall have \$400,000 worth of property or more insured; then any such company may do business in any or all counties of this state; *and provided further*, that any member of any such company may sue such company the same as if he was not a member thereof. (Laws 1891, p. 166, amended, Laws 1893, p. 186.)

SEC. 8081. Incorporated, how.—All farmers' mutual tornado, wind-storm and cyclone insurance companies may incorporate by filing a copy of their constitution and by-laws with the secretary of state and paying the sum of ten dollars to said secretary. (Laws 1891, p. 166.)

SEC. 8082. Farmers' mutual hail insurance companies exempt.—That hereafter all farmers' mutual hail insurance companies, organized for the sole purpose of mutually insuring their members against loss or damage to property and for the purpose of paying any loss incurred by any member thereof by assessment, as provided by their constitution and by-laws, are hereby exempt from the provisions of the insurance laws, as mentioned in this chapter, and nothing therein shall be so construed as to impair or in any manner interfere with any of the rights or privileges of any such compa-

nies doing a mutual insurance business in this state as herein provided: *Provided*, that any such company may do business in any or all counties of this state; and *provided further*, that any member of any such company may sue such company the same as if he was not a member thereof. (Laws 1897, p. 131.)

SEC. 8083. **Incorporated, how.**—All farmers' mutual hail insurance companies may incorporate by filing a copy of their constitution and by-laws with the secretary of state and paying the sum of ten dollars to said secretary. (Laws 1897, p. 131.)

ARTICLE XI.

TOWN MUTUAL INSURANCE COMPANIES.

SEC. 8084. **Exempt from other laws.**—That hereafter all town mutual fire and lightning, tornado, wind storm or cyclone insurance companies organized for the sole purpose of mutually insuring the property of its members against any loss incurred by them from fire, lightning or wind-storm as may be provided by its constitution and by-laws, shall be exempt from all laws of the state of Missouri governing other insurance companies. (New section.)

SEC. 8085. **Incorporated, how—may do business, when—by-laws.**—All town mutual fire, lightning, windstorm, tornado or cyclone insurance companies may hereafter be incorporated by filing a copy of its constitution and by-laws with the secretary of state and paying the sum of ten dollars to said secretary; but such companies hereafter organized shall not be authorized to issue policies until the secretary shall issue his certificate certifying that it has complied with all conditions of this article and are duly authorized to conduct the business it is incorporated for, according to its constitution and by-laws: *Provided*, that any by-law in conflict with this article shall be void. (New section.)

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SEC. 8087. **Certificate issued, when.**—It shall be the duty of the secretary of state, upon evidence being produced under such rules as the secretary shall prescribe, that any such company hereafter organized has *bona fide* contracts for insurance to aggregate one thousand dollars in premiums, to issue his certificate certifying that such company has complied with all the conditions of this article, which certificate shall be recorded in the recorder's office in the county where such company is located. A copy of such certificate shall be filed with the department of insurance of the state of Missouri. (New section.)

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SEC. 8102. **Town mutual plate-glass companies exempt.**—That hereafter all town mutual plate glass insurance companies, organized for the sole purpose of mutually insuring their members against loss or breakage to glass and for the purpose of paying any loss incurred by any member thereof by assessment, as provided by their constitution and by-laws, are hereby exempt from the provisions of the insurance laws, as mentioned in this chapter, and nothing there-

in shall be so construed as to impair or in any manner interfere with any of the rights or privileges of any such companies doing a mutual insurance business in this state, as herein provided: *Provided*, that any such company may do business in any or all counties of this state; *and provided further*, that any member of any such company may sue such company the same as if he was not a member thereof. (Laws 1897, p. 137.)

SEC. 8103. Incorporated, how.—All town mutual plate glass insurance companies may incorporate by filing a copy of their constitution and by-laws with the secretary of state, and paying the sum of ten dollars to said secretary. (Laws 1897, p. 137.)

CHAPTER 143.

POOLS, TRUSTS AND CONSPIRACIES.

ARTICLE I—Pools, trusts and conspiracies.

II—Agreements to regulate prices and limit trade.

III—Testimony in proceedings against trusts, etc.

IV—Taking testimony before institution of proceedings.

ARTICLE I.

POOLS, TRUSTS AND CONSPIRACIES.

SECTION

- 8965. Pools, trusts, etc., defined—penalty.
- 8966. Certain agreements declared unlawful.
- 8967. Trust certificates, etc., declared unlawful.
- 8968. Penalty.
- 8969. Contract void, when.
- 8970. Purchaser not liable, when.
- 8971. Forfeiture of charter by corporation.

SECTION

- 8972. Unlawful for corporation to transact business after forfeiting charter.
- 8973. Corporations, by officers, to make affidavit—penalty for failure.
- 8974. Supplemental affidavits.
- 8975. Article to be enforced, by whom.
- 8976. Attorney fee, etc., to be taxed, when.
- 8977. Duties of county officers.

SEC. 8965. Pools, trusts, etc., defined—penalty.—Any corporation organized under the laws of this or any other state or country for transacting or conducting any kind of business in this state, or which does transact or conduct any kind of business in this state, or any partnership or individual or other association of persons whatsoever, who shall create, enter into, become a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, or to maintain said price when so regulated or fixed, or shall enter into, become a member of or a party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing

whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to penalties as provided in this article; *and provided*, that if such insurance companies or their agents or the board of fire underwriters doing business in any city of this state, shall combine in any city of this state, either directly or indirectly, or agree or attempt to agree, directly or indirectly, to fix or regulate the price or premium to be paid for insuring property located within or outside of such city against loss or damage by fire, lightning or storm, such company so violating the provisions of this article, either by itself, its agents, or by any such board of underwriters, shall be taken and deemed to have forfeited its right to do business in this state, and shall become liable to all the penalties and forfeitures provided for by the provisions of this article. (Laws 1891, p. 186, amended, Laws 1895, p. 237, amended, Laws 1897, p. 208, amended—a.)

SEC. 8966. Certain agreements declared unlawful.—That from and after the passage of this article, all arrangements, contracts, agreements or combinations between persons or corporations, or between persons or any association of persons and corporations, designed or made with a view to lessen, or which tend to lessen full and free competition in the importation, manufacture or sale of any article, product or commodity in this state, and all arrangements, combinations, contracts or agreements, whereby, or under the terms of which, it is proposed, stipulated, provided, agreed or understood that any person, association of persons or corporations doing business in this state, shall deal in, sell or offer for sale in this state, any particular or specified article, product or commodity, and shall not during the continuance or existence of any such arrangement, combination, contract or agreement, deal in, sell or offer for sale in this state, any competing article, product or commodity, are hereby declared to be against public policy, unlawful and void; and any person, association of persons or corporation becoming a party to any such arrangement, contract, agreement or combination, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to the penalties provided for in this article. (Laws 1897, p. 208.)

SEC. 8967. Trust certificates, etc., declared unlawful.—It shall not be lawful for any corporation to issue or to own trust certificates, or for any corporation, agent, officer or employe, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consump-

(a) Construed. 80 A. 247. Applicable to all corporations, foreign or domestic. *Id.* Principle of comity would not endow a foreign corporation with a capacity denied a domestic corporation. *Id.* If the governing officers of the plaintiff corporation combine with each other to violate any of the provisions of this section through the instrumentality of their corporate entity, then the corporation composed by them was a party to such illegal combination within both the letter and the spirit of the law. *Id.*

tion, or to prevent, restrict or diminish the manufacture or output of any such article. (Laws 1891, p. 186.)

SEC. 8968. Penalty.—Any corporation or company, individual, firm or association violating any of the provisions of this article, shall forfeit not less than five dollars nor more than one hundred dollars for each day it shall continue to do so, to be recovered by an action in the name of the state, at the relation of the attorney-general, circuit or prosecuting attorney—moneys thus recovered to go into the county school fund of the county in which the cause accrues, and in the city of St. Louis into the school fund of said city. (Laws 1891, p. 186, amended, Laws 1895, p. 237.)

SEC. 8969. Contract void, when.—Any contract or agreement in violation of any provision of the preceding sections of this article shall be absolutely void. (Laws 1891, p. 186.)

SEC. 8970. Purchaser not liable, when.—Any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provision of the preceding sections of this article shall not be liable for the price or payment of such article or commodity, and may plead this article as a defense to any suit for such price or payment. (Laws 1891, p. 186—a.)

SEC. 8971. Forfeiture of charter by corporation.—Any corporation created or organized by or under the laws of this state, which shall violate any provisions of the preceding sections of this article, shall thereby forfeit its corporate rights and franchises; and its corporate existence shall, upon proper proof being made thereof in any court of competent jurisdiction in this state, be by the court declared forfeited, void and of non-effect, and shall thereupon cease and determine; and any corporation created or organized by or under the laws of any other state or country, which shall violate any provisions of the preceding sections of this article, shall thereby forfeit its right and privilege thereafter to do any business in this state, and upon proper proof being made thereof in any court of competent jurisdiction in this state, its right and privilege to do business in this state shall be declared forfeited; and in all proceedings to have such forfeiture declared, proof that any person who has been acting as the agent of such foreign corporation in transacting its business in this state has been, while acting as such agent, and in the name, behalf or interest of such foreign corporation, violating any provision of the preceding sections of this article, shall be received as *prima facie* proof of the act of the corporation itself; and it shall be the duty of the clerk of said court to certify the decree thereof to the secretary of state, and if it be an insurance company, also to the superintendent of the insurance department, who shall take notice and be governed thereby as to the corporate powers and rights of said corporation. (Laws 1891, p. 186, amended, Laws 1895, p. 237.)

SEC. 8972. Unlawful for corporation to transact business after forfeiting charter.—That whenever the corporate rights and franchises of any corporation organized under the laws of this state have been declared forfeited by the judgment of a court

(a) Since the law in express terms permits a private person to plead a violation of its provisions, in a suit against him for the price of goods purchased of a corporation transacting business contrary thereto, it must follow that the right to plead such defense entitles the party so authorized to prove what he has pleaded. 80 A. 247.

of competent jurisdiction for any violation of the provisions of this article, and whenever the right and privilege of any corporation organized under the laws of any other state or country to do business in this state has been declared forfeited by the judgment of a court of competent jurisdiction for any violations of the provisions of this article, it shall thereafter be unlawful for any person, association of persons or corporation, to deal in, sell or offer for sale in this state any article, product or commodity made, produced or manufactured, in whole or in part, by any corporation whose rights, franchises or privileges have been so declared to be forfeited; and the foregoing provisions of this section are hereby made applicable in all respects to the successor or assigns of any corporation whose rights, franchises or privileges have been so forfeited. Any person violating the provisions of this section is hereby declared to be guilty of a felony, and upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding three years, or by imprisonment in the county jail for a term not exceeding one year, or by a fine not less than one hundred dollars nor more than one thousand dollars, or by both such fine and jail imprisonment: *Provided*, that no statement made by any person in any affidavit made under the provisions of sections 8973 and 8974 of this article shall be competent as evidence against such person in any criminal prosecutions brought under this section. (Laws 1897, p. 208.)

Sec. 8973. Corporations, by officers, to make affidavit—penalty for failure.—It shall be the duty of the secretary of state, on or about the first day of July of each year, to address to the president, secretary or treasurer of each incorporated company doing business in this state, a letter of inquiry as to whether the said corporation has all or any part of its business or interest in or with any trust, combination or association of persons or stockholders, as named in the preceding provisions of this article, and to require an answer, under oath, of the president, secretary or treasurer or any director of said company. A form of affidavit shall be enclosed in said letter of inquiry, as follows:

AFFIDAVIT.

State of Missouri, }
County of ——— } ss.

I, —, do solemnly swear that I am the — (president, secretary, treasurer or director) of the corporation known and styled —, duly incorporated under the laws of —, on the — day of —, 19—, and now transacting or conducting business in the state of Missouri, and that I am duly authorized to represent said corporation in the making of this affidavit, and I do further solemnly swear that the said —, known and styled as aforesaid, has not since the — day of — (naming the day upon which this article takes effect) created, entered into or become a member of or a party to, and was not, on the — day of —, nor at any day since that date, and is not now a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm; and that it has not entered into or become a member of or a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning

or storm; and that it has not issued and does not own any trust certificates, and for any corporation, agent, officer or employe, or for the directors or stockholders of any corporation, has not entered into and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any article; and that it has not made or entered into any agreement, contract or agreement with any person, association of persons or corporation designed to lessen, or which tends to lessen, full and free competition in the importation, manufacture or sale of any article, product or commodity in this state, or under the terms of which it is proposed, stipulated, provided, agreed or understood that any particular or specified article, product or commodity shall be dealt in, sold or offered for sale in this state to the exclusion, in whole or in part, of any competing article, product or commodity.

(president, secretary, treasurer or director.)

Subscribed and sworn to before me, a —, within and for the county of —, this — day of —, 19—.

[Seal]

And on refusal to make oath in answer to said inquiry, or on failure to do so within thirty days from the mailing thereof, the secretary of state shall certify said fact to the prosecuting attorney of the county (the circuit attorney in the city of St. Louis) wherein said corporation is located, and it shall be the duty of such prosecuting or circuit attorney, at the earliest practicable moment, in the name of the state, and at the relation of said prosecuting or circuit attorney, to proceed against such corporation for the recovery of the money forfeit provided for in this article, and also for the forfeiture of its charter or certificate of incorporation, or its right and privilege to do business in this state. (Laws 1891, p. 186, amended, Laws 1895, p. 237, amended, Laws 1897, p. 208.)

SEC. 8974. Supplemental affidavits.—It shall be the duty of the secretary of state, at any time, upon satisfactory evidence that any company or association of persons duly incorporated under the laws of this or any other state, doing business in this state, has entered into any trust, combination or association, in violation of the preceding sections of this article, to demand that it shall make the affidavit as above set forth in this article as to the conduct of its business. In case of failure of compliance on the part of the corporation, then the same procedure shall ensue as is provided in section 8973 of this article: *Provided*, that no corporation, firm association or individual shall be subject to any criminal prosecution by reason of anything truthfully disclosed by the affidavit required by this article, or truthfully disclosed in any testimony elicited in the execution thereof. (Laws 1891, p. 186.)

SEC. 8975. Article to be enforced, by whom.—It shall be the duty of the attorney-general, the circuit attorney of the city of St. Louis, and the prosecuting attorney of each county, respectively, to enforce the provisions of this article. The attorney-general, the circuit or prosecuting attorneys shall institute and conduct all suits begun in the circuit courts, and upon appeal the attorney-general shall prosecute said suits in the supreme court and courts of appeals. As compensation for his services in this behalf, the attorney-general

shall be entitled to his actual expenses incurred in the prosecution of such suits, to be paid by the defendant or defendants when judgment is rendered for the state. The circuit and prosecuting attorneys shall receive for their compensation one-fourth of the penalty collected. (Laws 1891, p. 186, amended, Laws 1895, p. 237.)

SEC. 8976. Attorney fee, etc., to be taxed, when.—In all suits instituted under this article to forfeit the charter of corporations, or to forfeit the right of a corporation to do business in this state, where a judgment of forfeiture is obtained and the cause is not appealed to the supreme court or courts of appeals, the circuit court rendering such judgment shall allow the circuit or prosecuting attorney a fee of not less than twenty-five dollars nor more than five hundred dollars, to be paid out of the assets of said corporation; and when the attorney-general takes part in said prosecution, he shall be entitled to his actual expenses, to be paid in like manner. (Laws 1891, p. 186, amended, Laws 1895, p. 237.)

SEC. 8977. Duties of county officers.—It is hereby made the duty of all county officers in the state to furnish to the secretary of state any information which he may request of them, to enable him the more fully to execute the duties imposed upon him by this article, and for such services the said county officers shall be paid by their respective counties, upon allowance by the county court, such fees as would accrue for like services for the county. (Laws 1891, p. 186.)

ARTICLE II.

AGREEMENTS TO REGULATE PRICES AND LIMIT TRADE.

SECTION

8978. Agreements to regulate prices, control or limit trade declared illegal.

8979. Jurisdiction of offenses—duty of attorney-general and prosecuting attorneys.

SECTION

8980. Who may be brought in.

8981. Persons injured by unlawful agreement—damages.

8982. Purpose of this article.

SEC. 8978. Agreement to regulate prices, control or limit trade, declared illegal.—Every pool, trust, agreement, combination, confederation or understanding, conspiracy or combination entered into, or created, or organized by any corporation organized under the laws of this or any state, or any partnership or individual or other association of persons whatsoever with any other corporation, partnership, individual or any other person or association of persons to regulate, control or fix the price of any article or articles of manufacture, mechanism, merchandise, commodity, convenience or repair, or any product of mining of any kind or class, or any article or thing of any class or kind bought and sold, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, or to maintain said price or prices when so regulated, determined or fixed, and all agreements, combinations, confederations or conspiracies or pools made, created, entered into or organized by any corporation, partnership, individual or association of individuals to fix the amount or limit the quantity of any article or thing whatsoever, or of any article of manufacture, mechanism, commodity, con-

venience or repair, or any product of any class or kind of mining, are hereby declared illegal. If any two or more persons or corporations who are engaged in buying or selling any article of commerce, manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, shall enter into any pool, trust, agreement, combination, confederation, association or understanding to control or limit the trade in any such article or thing; or to limit competition in such trade, by refusing to buy from or sell to any other person or corporation any such article or thing aforesaid, for the reason that such other person or corporation is not a member of or party to such pool, trust, combination, confederation, association or understanding; or shall boycott or threaten any person or corporation for buying from or selling to any other person or corporation who is not a member of or a party to such pool, trust, agreement, combination, confederation, association or understanding any such article or thing aforesaid, it shall be a violation of this article. (New section.)

SEC. 8979. Jurisdiction of offenses—duty of attorney-general and prosecuting attorneys.—The several circuit courts of this state are hereby invested with jurisdiction to prevent and restrain any corporation, partnership, individual or association of individuals from entering into any combinations, pools, agreements in the form of trusts, confederation, conspiracy or understanding declared illegal by this article or any other law of this state relative to pools, trust, conspiracies and unlawful combinations. And it shall be the duty of the attorney-general and of the prosecuting attorneys, when so directed by the attorney-general, to institute proceedings in equity to prevent and restrain all violations of this act and of any other law concerning pools, trusts and conspiracies and unlawful combination. Such proceedings may be by way of petition, setting forth the case and praying that such violation be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed as soon as may be to the hearing and determination of the case; and pending such petition and before final decree the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. (New section.)

SEC. 8980. Who may be brought in.—Whenever it shall appear to the court before which any proceeding under this article may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the circuit in which the court is held or not; and subpoenas and summonses may be in proceedings under this article served by the sheriff of any county in any place in this state, and the same shall be valid. (New section.)

SEC. 8981. Persons injured by unlawful agreement—damages.—Any person injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this article may sue therefor in any circuit court of this state in which the defendant or defendants, or any one of them reside, or have any officer, agent, office or representative, or in which any such defendant or any agent, officer or representative may be found, without regard to the amount in controversy, and shall recover three-fold the damages by him sustained,

and the costs of suit, including a reasonable attorney's fee. (New section.)

SEC. 8982. Purpose of this article.—It is hereby expressly declared to be the intent of this article not to repeal any former act or part thereof on the subject of pools, trusts, conspiracies and unlawful combinations, except the same be in direct and irreconcilable conflict herewith. And it is hereby declared to be only the express purpose of this article to provide an additional remedy for the control and restraint of pools, trusts and conspiracies in restraint of trade and unlawful combination. (New section.)

ARTICLE III.

TESTIMONY IN PROCEEDINGS AGAINST TRUSTS, ETC.

SECTION

8983. Taking testimony in proceedings under this chapter.

SECTION

8984. Proceedings upon failure to testify or to produce books, papers, etc.
8985. *Ibid.*

SEC. 8983. Taking testimony in proceedings under this chapter.—Whenever any proceeding shall be commenced in any court of competent jurisdiction in this state by the attorney-general against any corporation or corporations, individual or individuals or associations of individuals, or joint stock associations or co-partnership, under the law against the formation and maintenance of pools, trusts of any kind, monopolies in commodities, combinations or organizations in restraint of trade to dissolve the same or to restrain their formation or maintenance in this state, then in such case, if the attorney-general desires to take the testimony of any officer, director, agent or employe of any corporation or joint stock association proceeded against, or in case of a co-partnership, any member of said partnership or any employe thereof, in any court in which said action may be pending or before any person duly authorized by any court to take testimony in any such action; and the individual or individuals, whose testimony is desired, are without the jurisdiction of the courts of this state, or reside without the state of Missouri, then, in such case, the attorney-general shall file in said court in term time, or in vacation, or with any person duly authorized to take the testimony in such case, a statement, in writing, setting forth the name or names of the persons or individuals whose testimony he desires to take and the time when, and the place in the state where he desires the said persons to appear; and, thereupon, the court in which, or one of the judges thereof, or the person before whom testimony is being taken, shall issue immediately a notice, in writing, directed to the attorney or attorneys of record in said cause, or any agent, officer or employe of any corporation, joint stock association or co-partnership which are parties to said action, notifying said attorneys of record, or officer, agent or employe, that the testimony of the person or persons named in the application of the attorney-general is desired, and requiring said attorney or attorneys of record, or said officer, agent or employe, to whom said notice is delivered or upon whom the same is served, to have said officer, agent, em-

ploye or representative of said co-partnership or agent thereof whose evidence it is desired to take at the place named in the application of the attorney-general and at the time fixed in said application, then and there to testify: *Provided, however,* that the said application shall always allow, in fixing said time, the same number of days for travel to reach the designated point in Missouri that would be now allowed by law in case of taking depositions: *Provided, also,* in addition to the above named time, six days shall be allowed for the attorney or attorneys of record, or the agent, officer or employe on whom notice is served, to notify the person or persons whose testimony is to be taken. Service of said notice and the return thereon, in writing, may be made by any one authorized by law to serve a subpoena. (New section.)

SEC. 8984. Proceedings upon failure to testify or to produce books, papers, etc.—Whenever any attorney or attorneys of record, or any agent, officer or employe of any such corporation, joint stock association or co-partnership, shall be notified, as above provided, to request any officer, agent, director or employe to attend before any court or before any person authorized to take the testimony in said proceeding, and the person or persons whose testimony is requested, as above provided, shall fail to appear and testify and produce whatever books, papers and documents they may be ordered to produce by the court, or the officer authorized to take said evidence, then it shall be the duty of the court, upon the motion of the attorney-general, to strike out the answer, motion, reply, demurrer or other pleading then or thereafter filed in said action or proceeding by said corporation, joint stock association or co-partnership, whose officer, agent, director or employe has neglected or failed to attend and to testify and produce all books, papers and documents he or they shall have been ordered to produce in said action by the court or person authorized to take said testimony; and said court shall proceed to render judgment by default against said corporation, joint stock association or co-partnership. (New section.)

SEC. 8985. Ibid.—And it is further provided, that in case any officer, agent, employe, director or representative of any corporation, joint stock association or co-partnership in such proceeding as hereinbefore mentioned, who shall reside or be found within this state, shall be subpoenaed to appear and testify or to produce papers, books and documents, and shall fail, neglect or refuse to do so, then the answer, motion, demurrer or other pleading then or thereafter filed by said corporation, joint stock association or co-partnership in any such proceeding shall, on motion of the attorney-general, be stricken out and judgment in said cause rendered against said corporation, joint stock association or co-partnership. (New section.)

ARTICLE IV.

TAKING TESTIMONY BEFORE INSTITUTION OF PROCEEDINGS.

SECTION

8986. Whether action should be commenced, determined, how.
 8987. Procedure for securing testimony.
 8988. Order for examination.

SECTION

8989. Testimony of witnesses.
 8990. Power of examiner.
 8991. Power to punish for contempt.
 8992. Costs, how paid.

SEC. 8986. Whether action should be commenced, determined, how.—For the purpose of determining whether an action or proceeding should be commenced against any pool, trust, conspiracy or combination in restraint of trade, the attorney-general may examine and procure the testimony of witnesses in the manner herein prescribed. (New section.)

SEC. 8987. Procedure for securing testimony.—Whenever the attorney-general deems it necessary or proper before beginning any action or proceeding against any pool, trust, conspiracy or combination made, arranged, agreed upon or entered into whereby a monopoly in the manufacture, production or sale in this state of any article or commodity is or may be sought to be created, established or maintained, or whereby competition in this state in the supply or price of any article or commodity is or may be restrained or prevented, then in such case the attorney-general may present to any justice of the supreme court an application, in writing, for an order directing such persons, as the attorney-general may require, to appear before a justice of the supreme court or any examiner designated in said order and answer such relevant and material questions as may be put to them concerning any alleged illegal contract, arrangement, agreement or combination in violation of the laws of this state against pools, trusts, agreements, combinations and conspiracies in restraint of trade, or to regulate, fix or maintain the price of any commodity or to create a monopoly therein, if it appears to the satisfaction of the justice of the supreme court to whom the application for the order is made that such an order is necessary or expedient, then such order shall be granted. Such order shall be granted without notice, unless notice is required to be given by the justice of the supreme court to whom the application is made, in which event an order to show cause why such application should not be granted shall be made containing such preliminary injunction or stay as may appear to said justice to be proper or expedient, and shall specify the time when and the place where the witnesses are required to appear, and such examination shall be held in the City of Jefferson. The justice of the supreme court or the examiner may adjourn such examination from time to time and witnesses must attend accordingly. (New section.)

SEC. 8988. Order for examination.—The order for such examination must be signed by the justice making it; and the service of a copy thereof, with an endorsement by the attorney-general signed by him, to the effect that the person named therein is required to appear and be examined at the time and place and before the justice or referee specified in such endorsement, shall be sufficient notice for the attendance of witnesses. Such endorsement may contain a

clause requiring such person to produce on such examination all books, papers and documents in his possession or under his control relating to the subject of such examination: *Provided, however,* that the production of books and papers for inspection shall always be subject to the order of the supreme justice who has ordered such examination, and either party may, by a petition, in writing, ask that the said justice pass on the question as to whether or not said books and papers should be produced and examined and introduced in evidence. The order to appear as a witness may be served and return of service made in the same manner and by the same officer by whom a subpoena may now be served. (New section.)

SEC. 8989. Testimony of witnesses.—The testimony of each witness must be subscribed by him, and all testimony taken by such justice or examiner appointed must be certified and delivered by such justice or examiner to the attorney-general at the close of the examination. The justice or examiner shall cause said testimony to be taken down by a competent stenographer. The testimony given by a witness in a proceeding or examination under this article shall not be given against him in any criminal action or proceeding, nor shall any criminal action or proceeding be brought against such witness on account of any testimony so given by him. (New section.)

SEC. 8990. Power of examiner.—An examiner appointed under this article shall have his power and authority specified in the order appointing him. And he shall have all the ordinary power and authority of an examiner appointed by the supreme court, in addition to what special duties may be devolved on him by the order of appointment. (New section.)

SEC. 8991. Power to punish for contempt.—If any witness or witnesses be properly served, as herein provided, with notice to appear and testify, and they fail to obey said notice, or appearing, refuse to testify, the attorney-general may file a statement, in writing, with the supreme court justice setting out such facts, and said justice may, if he deems it proper, issue a citation to said parties causing them to forthwith appear and show cause why he or they should not be fined or imprisoned, or both, for contempt. And in such contempt proceedings the justice of the supreme court shall have full power to either fine or imprison, or both, as a punishment for either failing to appear and testify, or appearing, failing to testify, or to produce books and papers when so ordered to do. (New section.)

SEC. 8992. Costs, how paid.—The supreme court justice may make such order concerning the taxation and payment of costs in these proceedings against either the state of Missouri or the person examined, or any corporation, co-partnership, joint stock company, or combination of persons interested in or connected in any way with the subject of such examination. Costs taxed shall be collected in the ordinary way costs are now collected in the supreme court, and an itemized statement thereof shall be filed with the clerk of the supreme court, to whom all cost must be paid. (New section.)

CORPORATION TAX AND FEES.

(Sec. 3283.)

The State shall be entitled to fees for services to be rendered by the Secretary of State, as follows:

For issuing and recording certificate of corporate existence.....	\$ 1.50
For all other certificates	1.25
For copying records, papers or documents, for each one hundred words or figures..	.10
For certifying copies of records, and papers or documents.....	1.00
For recording all papers and documents required by law to be recorded in the office of the Secretary of State, for each one hundred words and figures.....	.10

(Sec. 1183; also, Laws 1895, p. 117.)

For recording railroad and street railroad contracts.....	\$25.00
(and \$1.00 in addition for every 100 words in excess of 1,000 words.)	
For releasing same by entering upon margin of record declaration in writing to that effect	\$10.00

(Sec. 956.)

On all corporations other than those formed for benevolent, religious, scientific or educational purposes, there shall be paid into the State Treasury:

For first \$50,000, or less of capital.....	\$50.00
For every additional \$10,000 of capital	5.00
For increase of capital stock, for every \$10,000 or less of such increase.....	5.00

NOTE.—The law requires that the corporation tax and all fees be paid in advance to the State Treasurer. Money orders and drafts must be made payable to the order of the Treasurer and enclosed with the papers to the Secretary of State. Personal checks must be certified. Stamps cannot be received for State's fees.

CORPORATION FORMS.

FORM FOR INCORPORATING MANUFACTURING AND BUSINESS COMPANIES.

(Secs. 1312, 1313, 1319 and 1320.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of Missouri, and more particularly under the provisions of article IX, chapter 12, R. S. 1899, governing manufacturing and business companies, have entered into the following agreement:

First—That the name of the corporation shall be _____. (Name designating the business contemplated; but not the name of any corporation existing under the laws of this State for similar purposes. When the name of a person or firm is assumed it must be joined with some word designating the business to be carried on, followed by the word "company" or "corporation.")

Second—That the corporation shall be located in the _____, of the _____ county, Missouri.

Third—That the amount of the capital stock shall be _____ (not less than \$2,000 nor more than \$10,000,000) dollars, divided into _____ shares of the par value of _____ dollars each; that the same has been *bona fide* subscribed and _____ (not less than one-half) thereof actually paid up in lawful money of the United States, and is in the custody of the persons hereinafter named as the first board of directors.

Fourth—That the names (not less than three), places of residence of the shareholders, and the number of shares subscribed by each are:

Name.	Residence.	Number of shares.
.....		
.....		
.....		

Fifth—The board of directors shall consist of _____ (not less than three nor more than thirteen; at least three of whom shall be citizens and residents of Missouri) shareholders, and the names of those agreed on for the first year are _____, _____, _____.

Sixth—That the corporation shall continue for a term of _____ (not exceeding fifty) years.

Seventh—That the corporation is formed for the following purposes: (See Sec. 1319.)

In testimony whereof, we have hereunto set our hands this _____ day of _____, 19____.

State of Missouri, }
County of _____, } ss.

On this _____ day of _____, 19____, before me personally appeared _____, (names of all the stockholders) to me known to be the persons described in and who executed

the foregoing instrument and acknowledged that they executed the same as their free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year last above mentioned. My commission expires —, 19—.

(Seal)

_____, Notary Public.

Instructions: When the articles are signed and acknowledged by ALL the stockholders, they must be recorded in the office of the recorder of deeds of the county in which the corporation is located, and a certified copy thereof filed in the office of the Secretary of State, with the statutory tax and fee of \$2.50 on the first \$50,000 or less of capital, and \$5.00 on each additional \$10,000 of capital.

NOTE—If any of the stock in the proposed corporation is to be subscribed by a trustee, the articles must show for whom, and what shares are held in trust. On the organization of a corporation stock cannot be subscribed by another corporation; neither can a trustee subscribe for the stock to be held for the use of the new corporation to be disposed of thereafter. All stock must be subscribed by *bona fide* stockholders.

FORM OF STATEMENT INCREASING OR DECREASING CAPITAL STOCK OF MANUFACTURING AND BUSINESS COMPANIES AND TRUST COMPANIES.

(Secs. 1327, 1328 and 1329—Business Companies.)

(Secs. 1435, 1436 and 1437—Trust Companies.)

Be it known, that on the — day of —, 19—, a meeting of the stockholders of the —, a corporation under the laws of Missouri, was held at the city of —, county of —, State of Missouri, for the purpose of — the capital stock of said company, pursuant to notice signed by a majority of the directors of said company, duly published in the —, a newspaper published in the city of —, for more than sixty days prior to said date, the first insertion of said notice being on the — day of —, 19—, and the last insertion on the — day of —, 19—.

That a copy of said notice, postage prepaid, was deposited in the postoffice in the city of —, Missouri, addressed to each stockholder at his usual place of residence at least sixty days previous to the day fixed for said meeting.

That said meeting was organized by choosing —, a director in said company, chairman, and — secretary thereof.

That at said meeting there were present, in person or by proxy, at least a majority of the stockholders holding the full value of all the shares of stock of said company.

That a proposition was then and there submitted to —, the capital stock of said company from \$— to \$—.

And upon canvassing the vote thereon it appeared that a majority of the stock of said company had been voted in favor of such —. The amount of the capital stock of said company, paid up, is — dollars. The amount of the assets of said company is — dollars. The amount of its liabilities is — dollars, and the amount to which the capital stock of said company is — is — dollars, divided into — shares of the par value of — dollars each. * And that — per centum of said increase of capital has been actually paid up in lawful money of the United States, and is in the hands of the board of directors of said company.

_____, Chairman.

Attest:

_____, Secretary.

_____, chairman, being duly sworn, says the matters and things set forth in the foregoing statement are true.

_____, Chairman.

Subscribed and sworn to before me, this — day of —, 19—. My commission expires —, 19—.

(Seal)

_____, Notary Public.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared —, (name of chairman) to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned. My commission expires —, 19—.

(Seal) _____, Notary Public.

NOTE—The statement must be sworn to by the chairman, and also acknowledged by the chairman before a proper officer, and then recorded in the office of the Recorder of Deeds, and a certified copy from the recorder filed in the office of the Secretary of State, with state tax and fee as follows: Tax, \$5 on each \$10,000 of increase, or the fraction thereof, and \$1.25 for certificate.

*Omit the following sentence when the capital is decreased. The State's fee for certificate of decrease of capital stock will be \$1.25.

FORM FOR INCORPORATING MANUFACTURING AND BUSINESS COMPANIES.

WHEN A PORTION OF THE STOCK IS PREFERRED.

(Secs. 1312, 1313, 1319 and 1320.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of Missouri, and more particularly under the provisions of article IX, chapter 12, R. S. 1899, governing manufacturing and business companies, have entered into the following agreement:

First—That the name of the corporation shall be — (not the name of any corporation existing in this State for similar purposes, or an imitation thereof.)

Second—That the corporation shall be located in the — of — county, Missouri.

Third—That the amount of the capital stock of this company shall be — thousand dollars, of which — dollars shall be preferred stock—which shall be entitled to a preferential dividend of — (not exceeding 8 per cent.) per cent. per annum—divided into — shares of the par value of — dollars each; that the same has been *bona fide* subscribed and — (at least one-half) thereof actually paid up in lawful money of the United States which is in the custody of the persons hereinafter named as the first board of directors.

Fourth—That the names, places of residence of the several shareholders and the number of shares of stock, both common and preferred, subscribed by each are as follows:

COMMON STOCK.

Name.	Residence.	Number of shares.
.....		
.....		
.....		

PREFERRED STOCK.

Name.	Residence.	Number of shares.
.....		
.....		
.....		

Fifth—That the board of directors shall consist of — (not less than three nor more than thirteen; at least three of whom shall be citizens and residents of Missouri) shareholders and the following named have been agreed upon for the first year —, —, —.

Sixth—That the corporation is to continue — (not exceeding fifty) years.

Seventh—That the purposes for which the company is formed are to —. (See section 1319).

In testimony, whereof, we have hereunto set our hands this — day of —, 19—.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared — (names of all the stockholders), to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned. My commission expires —, 19—.

(Seal)

—, Notary Public.

(See note at bottom of preceding form.)

FORM OF STATEMENT OF INCREASE OF CAPITAL STOCK OF MANUFACTURING AND BUSINESS COMPANIES.

WHEN ANY PORTION OF THE INCREASE IS PREFERRED STOCK.

Be it known, that on the — day of —, 19—, a meeting of the stockholders of the —, a corporation under the laws of Missouri, was held at the city of —, county of —, State of Missouri, for the purpose of increasing the capital stock of said company from — dollars to — dollars, and of considering the advisability of issuing of said proposed increase — dollars of preferred stock, pursuant to notice signed by a majority of the directors of said company, duly published in the —, a — newspaper published in the city of —, for more than sixty days prior to said date, the first insertion of said notice being on the — day —, 19—, and the last insertion on the — day of —, 19—.

That a copy of said notice, postage prepaid, was deposited in the postoffice in the city of —, Missouri, addressed to each stockholder at his usual place of residence at least sixty days previous to the day fixed for said meeting.

That said meeting was organized by choosing —, a director in said company, chairman, and —, secretary thereof.

That at said meeting there were present, in person or by proxy, all of the stockholders holding the full value of all the shares of stock of said company.

That a proposition was then and there submitted to increase the capital stock of said company from \$— to \$—; and upon canvassing the vote thereon it appeared that a majority of the stock of said company had been voted in favor of such increase.

And that a separate proposition was also then and there submitted, that of the capital stock so increased — shares, of the par value of — dollars each, shall be preferred stock, and as such, shall be entitled to a dividend of — (not exceeding 8 per cent.) per cent. per annum, payable out of the net yearly income, earned in any one current year before any dividend shall be made and paid on the general stock of the company; and that upon canvassing the vote thereon, it appeared that all of the stock of said company had been voted in favor of issuing said preferred stock.

The amount of the capital stock of said company, paid up, is — dollars. The amount of the assets of said company is — dollars. The amount of its liabilities is — dollars, and the amount to which the capital stock of said company is increased is — dollars, divided into — shares of the par value of — dollars each. And

that — (not less than 50 per cent.) per centum of said increase has been actually paid up in lawful money of the United States, and is in the hands of the board of directors of said company.

Attest:

_____, Secretary.

_____, chairman, being duly sworn, says that the matters and things set forth in the foregoing statement are true.

_____, Chairman.

Subscribed and sworn to before me, this — day of —, 19—. My commission expires —, 19—.

(Seal)

_____, Notary Public.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared —, (name of chairman) to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned. My commission expires —, 19—.

(Seal)

_____, Notary Public.

NOTE—The statement must be sworn to by the chairman, and also acknowledged by the chairman before a proper officer, and then recorded in the office of the recorder of deeds, and a certified copy from the recorder filed in the office of the Secretary of State, with State tax and fee as follows: Tax, \$5.00 on each \$10,000 of increase, or the fraction thereof, and \$1.25 for certificate.

FORM FOR INCORPORATING STANDARD GAUGE RAILROAD COMPANIES.

(Secs. 1034 and 1036.)

Know all men by these presents:

That we, whose names are hereunto subscribed, do hereby associate ourselves together for the purpose of forming a corporation under the laws of Missouri, and more particularly under the provisions of article II, chapter 12, R. S. 1890, to construct, maintain and operate a standard gauge railroad for public use in the conveyance of persons and property, have entered into the following agreement:

First—That the name of the corporation shall be — (not the name of any corporation existing under the laws of this State.)

Second—That the corporation shall continue for — years.

Third—That the railroad shall be constructed from —, in the county of —, Missouri, to —; that the length of the road, as near as may be, is — miles; and that the names of the counties in this State through or into which it is intended to be made are —, —, —.

Fourth—That the amount of the capital stock of this corporation shall be — (not less than \$10,000 for every mile of road proposed to be constructed) dollars, divided into — shares of the par value of — dollars each.

Fifth—That the board of directors shall consist of — (not less than five nor more than thirteen, at least three of whom shall be citizens and residents of Missouri) persons; and that the following are the names and places of residence of those agreed upon to manage the affairs of the corporation for the first year, and until others are chosen in their places:

Name.	Residence.
.....	
.....	
.....	
.....	

In testimony whereof, we have hereunto subscribed our names, places of residence and the number of shares of stock each agrees to take in said company, this — day of —, 19—:

Name.	Place of residence.	Number of shares.
.....		
.....		
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.....		
.....		

State of Missouri, }
County of _____, } ss.

_____, _____ and _____, (not less than three of the directors) being duly sworn, each on his oath, states that he is one of the directors named in the foregoing articles of association for the incorporation of the _____; that at least one thousand dollars of stock for every mile of standard gauge railroad proposed to be constructed is subscribed thereto, and five per cent. paid thereon, in good faith, in cash to the directors named in said articles of association; and that it is intended in good faith to construct, maintain and operate the standard gauge road mentioned in said articles of association.

Subscribed and sworn to before me, this _____ day of _____, 19____. My commission expires _____, 19____.

(Seal)

_____, Notary Public.

NOTE—Original articles of association must be filed and recorded in the office of the Secretary of State. The State tax and fee on the first \$50,000 capital, or less, \$52.50; and \$5.00 on each additional \$10,000.

FORM FOR INCORPORATING STREET RAILROAD COMPANIES.

(Sec. 1136.)

Know all men by these presents:

That we, whose names are hereunto subscribed, do hereby associate ourselves together, under the provisions of article III, chapter 12, R. S. 1899, for the purpose of forming a company to construct, maintain and operate a street railroad, for public use, in the conveyance of persons, mail and express parcels, have entered into the following agreement:

First—That the name of the company shall be the _____ (not the name of any corporation now existing under the laws of this State.)

Second—That the corporation shall continue for a term of _____ years.

Third—That the company is formed for the purpose of constructing, maintaining and operating a street railroad in the city of _____, county of _____, Missouri.

Fourth—That the amount of the capital stock of the company shall be _____ dollars; divided into _____ shares of the par value of _____ dollars each; that one-half of the sum has been subscribed and ten per cent. thereof paid in good faith to the directors hereinafter named.

Fifth—That the board of directors shall consist of _____ (not less than five nor more than thirteen; not less than three of whom shall be residents of Missouri) persons; and the names and places of residence of those agreed upon to manage the affairs of the company for the first year, and until others are chosen in their places, are:

Name.	Residence.
.....	
.....	
.....	
.....	
.....	

In testimony whereof, we have hereunto subscribed our names, places of residence and the number of shares of stock each agrees to take in said company, this — day of —, 19—:

Name.	Place of residence.	Number of shares.
.....		
.....		
.....		
.....		
.....		

State of Missouri, }
County of —, } ss.

—, — and —, (not less than three of the directors) being duly sworn, each on his oath, states that he is one of the directors named in the foregoing articles of association for the incorporation of the —; that at least one-half of the capital stock of the proposed corporation has been in good faith subscribed, and that ten per cent. of the amount so subscribed has been paid to the directors named in said articles; and that it is intended in good faith to construct, maintain and operate the road mentioned in the articles of association.

Subscribed and sworn to before me, —, a notary public within and for the county of —, State of Missouri.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this — day of —, 19—. My term expires —, 19—.

(Seal)

—, Notary Public.

NOTE—Original articles must be filed and recorded in the office of Secretary of State. State tax, \$50 for the first \$50,000 capital, or less, and \$5.00 for each additional \$5,000. Fee for recording and issuing a certified copy, \$2.50.

FORM FOR INCORPORATING TELEGRAPH AND TELEPHONE COMPANIES. (Secs. 1246 and 1247.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of the State of Missouri, and more particularly under the provisions of article VI, chapter 12, R. S. 1899, for the purpose of constructing, owning, operating and maintaining lines of telephone (or telegraph, as the case may be), have entered into the following agreement:

First—That the name of the corporation shall be — (not the name of any existing corporation under the laws of this State.)

Second—That the amount of the capital stock is —, (not less than \$500 subscribed for a telephone company, or \$20,000 for a telegraph company), divided into — shares of — dollars each.

Third—That the board of directors shall consist of — (not less than three nor more than thirteen, at least three of whom shall be citizens and residents of this State) members; and those elected for the first year are —, —, —.

Fourth—That the names (not less than five), places of residence of the several shareholders, and the number of shares subscribed by each are as follows:

Name.	Residence.	Number of shares.
.....		
.....		
.....		

Fifth—That the location of the principal office or place of business is —, in county of —, Missouri, and — is the authorized agent thereof.

Sixth—That the corporation shall continue for the period of — (not exceeding 50) years.

In testimony whereof, we have hereunto set our hands this — day of —, 19—.

State of Missouri, }
County of —. } ss.

—, —, —, being three of the subscribers to the foregoing articles of association for the incorporation of the —, being duly sworn, each did say that the matters and things set forth therein are true.

Subscribed and sworn to before me, this — day of —, 19—. My commission expires —, 19—.

(Seal) _____, Notary Public.

NOTE—Must be signed by all of the stockholders, sworn to by three of them, and the original articles filed and recorded in the office of the Secretary of State. Tax and fee, \$52.50 on the first \$50,000, or less of capital, and \$5.00 on each additional \$10,000.

CERTIFICATE OF INCREASE OF CAPITAL STOCK OF BUILDING AND LOAN ASSOCIATIONS, RAILROAD COMPANIES, TELEPHONE AND TELEGRAPH COMPANIES.

We, the undersigned, —, president, and —, secretary of the — of the city of —, State of Missouri, hereby certify that at a meeting of the stockholders of said — (company or association), held on the — day of —, 19—, pursuant to notice printed once a week in the —, published in the city of —, the first insertion of which notice was not less than sixty days, and the last not less than one nor more than six days previous to the day on which such meeting was held, a proposition was duly submitted to increase the capital stock of said — (company or association), from \$— to \$—; that upon said proposition the consent of the persons holding the larger amount in value of the stock of said — (company or association)

was given viz.: — votes in favor of and — against it; and that, therefore, the capital stock of said — (company or association) is hereby increased from \$— to \$—.

Witness our hands this — day of —, 19—.

—, President.

—, Secretary.

NOTE—If "Building and Loan Association," the statement must be acknowledged by the parties thereto, recorded in the office of recorder of deeds of the county in which the corporation is located, and a certified copy filed in the office of the Secretary of State.

If "Railroad," the statement must be certified by the president and attested by the secretary with the seal of the corporation, and filed in the office of the Secretary of State.

If "Telegraph or Telephone," the statement must be sworn to by the parties thereto and filed in the office of the Secretary of State.

In all cases, there must be paid in advance, the constitutional tax of \$5.00 on each \$10,000, or less of increase, and \$1.25 for certificate.

FORM FOR INCORPORATING BANKS OF DEPOSIT AND DISCOUNT.

(Secs. 1274, 1275, 1278 and 1281.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of Missouri, and more particularly under the provisions of article VIII, chapter 12, R. S. 1899, for the purpose of establishing a Bank of Deposit and Discount, have entered into the following agreement:

First—That the name of this corporation shall be — (not the name of any corporation existing in this State for similar purposes, or an imitation thereof.)

Second—That the bank shall be located at the —, of — county of —, Missouri.

Third—That the amount of the capital stock of the bank shall be — (not less than \$0,000 nor more than \$5,000,000; and not less than \$100,000, when located in a city having a population of 150,000 inhabitants or more), divided into — shares of the par value of — (not less than \$100) dollars each; that the same has been *bona fide* subscribed and — (not less than one-half), actually paid up in lawful money of the United States and is in the custody of the persons hereinafter named as the first board of directors.

Fourth—That the names (not less than five) and places of residence of the several shareholders and the number of shares subscribed by each are as follows:

Name.	Residence.	Number of shares.
.....		
.....		
.....		
.....		
.....		

Fifth—That the board of directors shall consist of — (not less than 3 nor more than 21, all of whom shall be residents of Missouri, and each a *bona fide* owner of at least two shares of stock) shareholders; and the following are the names of those agreed upon for the first year: —, —, —.

Sixth—That the corporation shall continue for — (not exceeding 50) years.

In testimony whereof, we have hereunto, this — day of —, 19—, set our hands.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared — (names of all the stockholders), to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above mentioned. My commission expires —, 19—.

(Seal) _____, Notary Public.

NOTE—When the articles are signed and acknowledged by all of the stockholders, they must be recorded in the office of the recorder of deeds of the county in which the corporation is located, and a certified copy of the recorded instrument filed in the office of Secretary of State, with the statutory tax and fee of \$52.50 on the first \$50,000, or less of capital, and \$5.00 on each additional \$10,000.

CERTIFICATE OF INCREASE OF CAPITAL STOCK OF A BANK.

(Sec. 1290.)

We, the undersigned, —, president, and —, cashier (or secretary) of the — of the city of —, State of Missouri, hereby certify that at a meeting of the stockholders of said — bank, held on the — day of —, 19—, pursuant to notice printed once a week in the —, published in the city —, the first insertion of which notice was not less than sixty days, and the last not less than one nor more than five days previous to the day on which such meeting was held, a proposition was duly submitted to increase the capital stock of said — bank from \$— to \$—; that upon said proposition the consent of the persons holding the larger amount in value of the stock of said — bank was given, viz.: — votes in favor of and — against it; and that, therefore, the capital stock of said — bank is hereby increased from \$— to \$—, and that said increase is actually subscribed and paid up.

Attest: _____, Secretary.

_____, President, being duly sworn, says that the matters and things set forth in the foregoing statement are true.

Subscribed and sworn to before me, this — day of —, 19—. My commission expires —, 19—.

(Seal) _____, Notary Public.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared — (president), to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year last above written. My commission expires —, 19—.

(Seal) _____, Notary Public.

NOTE—Must be recorded in the office of recorder of deeds, and a certified copy thereof filed in the office of the Secretary of State. The tax is \$5.00 on each \$10,000, or less of increase, and fee of \$1.25 for certificate.

CERTIFICATE OF DECREASE OF CAPITAL OF A BANK.

(Sec. 1239.)

We, the undersigned, —, president, and —, cashier (or secretary) of the —, hereby certify that a meeting of the stockholders of said bank was held on the — day of —, 19—, pursuant to notice printed once a week in the —, a weekly newspaper, published in the city of —, for four insertions before the date of said meeting, the last insertion being at least ten days previous to the day on which said meeting was held. That at said meeting a proposition was duly submitted to decrease the capital of said bank from — dollars to — dollars; that upon said proposition the consent in writing of owners of not less than two-thirds of the stock of said bank was given, and that — votes were cast in favor of such reduction of capital and — votes against it.

Therefore, the capital stock of said bank was decreased from — dollars to — dollars.

Witness our hands and seals, this — day of —, 19—.

_____, President.

_____, Cashier (or

_____, Secretary.)

NOTE—Must be acknowledged by the officers executing the same, recorded in the office of the recorder of deeds, and a copy thereof certified by the recorder filed in the office of the Secretary of State. The State's fee for certificate will be \$1.25.

FORM FOR ESTABLISHING A PRIVATE BANK.

(Sec. 1299.)

Be it known that the undersigned, —, —, —, have associated themselves together for the purpose of conducting a private bank under the laws of Missouri.

The capital stock of said bank shall be — thousand dollars, and — thousand dollars (not less than \$5,000) thereof are paid up.

The name under which said business is to be conducted shall be —.

The place at which it is to be carried on is —.

In witness whereof, we hereunto set our hands, this — day of —, A. D. 19—.

Subscribed and sworn to before me, this — day of —, 19—. My commission expires —, 19—.

(Seal)

_____, Notary Public.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared —, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Witness my hand and seal the day and date last aforesaid. My commission expires —, 19—.

(Seal)

_____, Notary Public.

NOTE—The statement must be recorded in the recorder's office, and a certified copy from the recorder filed in the office of the Secretary of State. Fee for certified copy, \$1.25.

FORM FOR INCORPORATING A TRUST COMPANY.

(Secs. 1424, 1425, 1426, 1427 and 1429.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of Missouri, and more particularly under the provisions of article XII, chapter 12, R. S. 1899, governing the formation of trust companies, have entered into the following agreement:

First—That the name of this corporation shall be the — (not the name already assumed by another corporation, or the imitation thereof.)

Second—That the corporation shall be located in the —, of — county of —, Missouri.

Third—That the capital stock of the corporation shall be — (not less than \$100,000, actually subscribed, nor more than \$10,000,000) dollars, divided in — shares of the par value of — dollars; that the amount of capital stock actually subscribed is — (which shall be at least one-fourth of the capital stock authorized) dollars; that — (not less than one-half) of the capital stock so subscribed has been actually paid up in lawful money of the United States, and is in the custody of the persons named as the first board of directors.

Fourth—That the names (not less than five) and places of residence of the several shareholders, and the number of shares subscribed by each are as follows:

Name.	Residence.	Number of shares.
.....		
.....		
.....		
.....		
.....		

Fifth—That the board of directors shall consist of — (not less than five nor more than twenty-five, a majority of whom shall be *bona fide* citizens of the State) stockholders, and the following named have been agreed upon for the first year:
—, —, —, —, —.

Sixth—That the corporation shall continue for — (not exceeding 50) years.

Seventh—That the purposes for which this corporation is formed are —. (See Sec. 1427.)

In testimony whereof, we have hereunto set our hands, this — day of —, 19—.

State of Missouri, }
County of —, } ss.

On this — day of —, 19—, before me personally appeared — (names of all subscribers to the stock), to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written. My commission expires —, 19—.

(Seal) _____ Notary Public.

NOTE.—Must be recorded in the office of recorder of deeds of the county in which the corporation is located, and a certified copy thereof filed in the office of the Secretary of State. State tax on a capital of \$1,000,000 will be \$75, and fee for certificate, \$2.50; \$5.00 tax on each additional \$10,000 of capital.

FORM FOR INCORPORATING SAVINGS AND SAFE DEPOSIT INSTITUTIONS
(Secs. 1440, 1441, 1442, 1443 and 1445.)

Know all men by these presents:

That we, the undersigned, desirous of forming a corporation under the laws of Missouri, and more particularly under the provisions of article XIII, chapter 12, R. S. 1899, governing the formation of Savings and Safe Deposit institutions, have entered into the following agreement:

First—That the name of the corporation shall be _____ (not the name of any other corporation in this state, or an imitation thereof).

Second—That the corporation shall be located in the _____ of _____ county, Missouri.

Third—That the amount of the capital stock of the corporation shall be _____ (not less than \$10,000, in cities of 50,000 inhabitants or under; not less than \$50,000 in cities of more than 50,000 and less than 150,000 inhabitants; and not less than \$100,000 in cities of 150,000 or over) dollars, divided into _____ shares of \$100 each; and that the entire amount thereof has been subscribed in good faith, and actually paid up in lawful money of the United States, and is in possession of the persons named as the first board of directors.

Fourth—That the names (not less than five) and places of residence of the several shareholders and the number of shares subscribed by each are as follows:

Name.	Residence.	Number of shares
.....		
.....		
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.....		

Fifth—That the board of directors shall consist of _____ (not less than five, nor more than thirteen, a majority of whom shall be *bona fide* citizens of this State), shareholders, and the name of those agreed on for the first year are: _____, _____, _____, _____, _____.

Sixth—That the corporation shall continue for a term of _____ (not exceeding fifty) years.

Seventh—That the purposes for which this corporation is formed are _____. (See section 1445).

In testimony whereof, we have hereunto set our hands this _____ day of _____, 19—.

State of Missouri, }
County of _____, } ss.

On this _____ day of _____, 19—, before me personally appeared _____ (names of all the stockholders), to me known to be the persons described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the date above mentioned. My commission expires _____, 19—.

(Seal) _____, Notary Public.

NOTE.—Must be recorded in the office of the recorder of deeds of the county in which the corporation is located, and a copy certified by the recorder filed in the office of the Secretary of State. State tax, \$50, on first \$50,000 or less of capital, and \$.50 on each \$10,000, additional. Fee for certificates, \$2.50.

CERTIFICATE EXTENDING TIME OF CORPORATE EXISTENCE.

(Sec. 972.)

Whereas, the period of corporate existence of the _____ of _____, Missouri, a corporation existing under and by virtue of the laws of the state of Missouri, expires on the _____ day of _____, 19—; and said corporation being desirous of accepting the general laws of the State of Missouri relating to corporations, and having the time of its corporate existence extended for a period of _____ years from the said _____ day of _____, 19—:

Therefore, we, the undersigned, president and secretary of said corporation, hereby certify that in pursuance of a notice in writing previously given each stockholder of said company, such notice being signed by three-fourths of the stockholders of said company (if notice is given for sixty days under sections 962 and 963, as authorized by section 972, then change the statement to agree with the facts), a meeting of the stockholders of said corporation was held at _____, Mo., on the _____ day of _____, 19—, at _____ o'clock _____ m., for the purpose of determining whether or not the said corporation should accept the provisions of the general laws of the State of Missouri relating to corporations and have its corporate existence extended for the period of _____ years from the _____ day of _____, 19—.

That at said meeting there were present stockholders of said company representing at least three-fourths of the capital stock of said company; and upon a resolution duly submitted it was determined by a vote of three-fourths of the stockholders in number and value of the stock of said corporation that said corporation accept the provisions of the general laws of the State of Missouri relating to corporations, and have its corporate existence extended for the period originally permissible to it; that is to say, for the period of _____ years from _____, 19—, and that the capital stock of said company shall be _____ dollars divided into _____ shares of the par value of _____ dollars each.

We further certify that thereafter on the _____ day of _____, 19—, at a meeting of the directors of said _____ company, we, as president and secretary of said company, were duly authorized and directed by said board of directors to certify to the Secretary of State of Missouri the facts hereinbefore alleged, and that said corporation had by the approval of three-fourths of its stockholders holding three-fourths of the capital stock of said company determined to accept the provisions of the general laws of the State of Missouri relating to corporations and have its charter extended, all as heretofore set out.

In witness whereof, we have hereunto set our hands at _____, Missouri, this the _____ day of _____, 19—. _____, President,

_____, Secretary.

Approved by order of the board of directors this day of _____ 19—.

Directors.

NOTE.—The certificate, when properly executed, must be filed in the office of the Secretary of State. The constitutional tax of \$50 on the first \$50,000 or less of capital and \$5.00 on each additional \$10,000 will be required; also a fee of \$1.50 for certificate.

AFFIDAVIT OF CHANGE OF NAME.

(Sec. 971.)

State of Missouri, }
County of _____, } ss.

_____, (President or Secretary) of the _____, a corporation duly incorporated under the laws of the State of Missouri, being duly sworn, on his oath, states that at a meeting of the stockholders of said corporation, duly called and held on

the _____ day of _____, 19—, the name of said corporation was, by a vote of its said stockholders, cast as its by-laws direct, changed from _____ to _____.

_____, (President or Secretary).

Subscribed and sworn to before me, this _____ day of _____, 19—. My term expires _____, 19—.

(Seal)

_____, Notary Public.

NOTE.—Will not take effect until affidavit is filed in office of Secretary of State. State's fee for certified copy will be \$1.25.

AFFIDAVIT OF CHANGE IN NUMBER OF DIRECTORS.

(Sec. 971.)

State of Missouri, }
County of _____, } ss.

_____, (President or Secretary) of the _____, a corporation duly incorporated under the laws of the State of Missouri, being duly sworn, upon his oath, states that at a meeting of the stockholders of said corporation, duly called and held on the _____ day of _____, 19—, the number of directors of said corporation was, by a vote of its said stockholders, cast as its by-laws direct, changed from _____ to _____.

_____, (President or Secretary).

Subscribed and sworn to before me, this _____ day of _____, 19—. My term expires _____, 19—.

(Seal)

_____, Notary Public.

NOTE.—Will not take effect until affidavit is filed in the office of the Secretary of State. State's fee for certified copy will be \$1.25.

STATEMENT OF REDUCTION OF PAR VALUE OF SHARES OF STOCK.

(Sec. 971, 7th clause.)

State of Missouri, }
County of _____, } ss.

_____, President, and _____, Secretary of the _____ of the city of _____, State of Missouri, being duly sworn, upon their oaths, state that at a meeting of the stockholders of said _____, held on the _____ day of _____, 19—, pursuant to a notice published once a week in the _____, published in the city of _____, the first insertion of which notice was not less than sixty days, and the last not less than one nor more than six days previous to the day on which such meeting was held, a proposition was duly submitted to reduce the par value of the shares of the capital stock of said _____ from \$_____ to \$_____, and correspondingly increase the number thereof; that upon said proposition the consent of the persons holding the larger amount in value of the stock of said _____ was given, viz.: _____ votes in favor of, and _____ against it; and that, therefore, the par value of the shares of capital stock of said _____ is hereby reduced from \$_____ to \$_____, and the number thereof correspondingly increased from _____ to _____.

Witness our hands this _____ day of _____, 19—.

_____, President,

_____, Secretary.

Subscribed and sworn to before me, this _____ day of _____, 19—. My commission expires _____, 19—.

(Seal)

_____, Notary Public.

NOTE.—Must be sworn to by the president and secretary, recorded in the office of the recorder of deeds of the county in which the corporation is located, and then filed in the office of Secretary of State. The State's fee for a certified copy will be \$1.50.

STATEMENT EXTENDING BUSINESS PURPOSES.

(Secs. 1327, 1328 and 1329.)

Be it known that on the _____ day of _____, 19—, a meeting of the stockholders of the _____ was held at the city of _____, county of _____, State of Missouri, for the purpose of amending the articles of association of said company, and include in its business purposes _____ (set out fully the language of the amendment), pursuant to notice signed by a majority of the directors of said company, duly published in the _____, a _____ newspaper published in the city of _____ for more than sixty days prior to said date, the first insertion of said notice being on the _____ day of _____, 19—, and the last insertion on the _____ day of _____, 19—.

That a copy of said notice, postage prepaid, was deposited in the postoffice in the city of _____, Missouri, addressed to each stockholder, at his usual place of residence, at least sixty days previous to the day fixed for said meeting.

That said meeting was organized by choosing _____, a director in said company, chairman, and _____, secretary thereof.

That at said meeting there were present, in person or by proxy, at least a majority of the stockholders holding the full value of all the shares of stock of said company.

A proposition was then and there submitted to amend section seven of the articles of association of said company to extend its business to and include the _____.

And upon canvassing the vote thereon it appeared that a majority of the stock of said company had been voted in favor of such amendment.

Attest:

_____, Secretary.

_____, Chairman.

_____, chairman, being duly sworn, says the matters and things set forth in the foregoing statement are true.

_____, Chairman.

State of Missouri, }
County of _____, } ss.

On this _____ day of _____, 19—, before me personally appeared _____, to be known to be the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Witness my hand and seal the day and date last aforesaid. My commission expires _____, 19—.

(Seal)

_____, Notary Public.

NOTE.—This statement must be sworn to by the chairman, and also acknowledged by the chairman before a proper officer, and then recorded in the office of the recorder of deeds, and a certified copy from the recorder filed in the Department of State. State's fee for certificate, \$1.25.

AFFIDAVIT OF DISSOLUTION.

(Sec. 1018.)

_____ (President or Secretary), of the _____, being duly sworn, on his oath, says that said corporation was on the _____ day of _____, 19—, by a unanimous vote of its stockholders, duly dissolved; that the liabilities of said company have been fully discharged; that the assets have been distributed, and that the certificates of stock have been surrendered and cancelled.

_____, President or Secretary.

Subscribed and sworn to before me, a Notary Public, within and for the _____ of _____, this _____ day of _____, 19—. My commission expires _____, 19—.

(Seal)

_____, Notary Public.

NOTE.—This affidavit, when filed in the office of the Secretary of State, will relieve the company from making further annual reports to that office; but will not relieve it, or its stockholders, of liabilities, should any exist. Provision is made by law, which took effect August 20, 1896, for the voluntary dissolution of a corporation, under sections 978, 979, 980 and 981. Fee for a certified copy, \$1.25.

FOREIGN CORPORATIONS.

(Secs. 1024, 1025, 1026, 1027, 1315, 1316 and 1317.)

A foreign corporation desiring to obtain certificate of authority and license to do business in Missouri is required to file in the office of the Secretary of State:

First—A copy of its articles of association and charter certified by the Secretary of State of the state in which the company is incorporated. The articles should show that the full amount of the capital stock, which cannot exceed \$10,000,000, has been *bona fide* subscribed, and that at least one-half thereof has been paid up, according to the laws of Missouri. If the articles should not set out these facts, but if subsequent to its incorporation the full amount of the authorized capital has been *bona fide* subscribed, and one-half thereof has been paid up, it will be permissible for an authorized officer of the company to make affidavit to that effect in the following form:

State of _____, }
County of _____, } ss.

I, _____ (President or Secretary) of the _____, a corporation organized under the laws of _____, with a capital stock of _____ dollars, divided into _____ shares of the par value of _____ dollars each, as authorized by its certificate of incorporation issued by the Secretary of State of the state of _____, on the _____ day of _____, 18—, do hereby certify that all of said stock has been *bona fide* subscribed and _____ per cent. (not less than 50) actually paid up according to the laws of the State of Missouri.

Witness my hand this _____ day of _____, 19—.

_____, (President or Secretary).

Subscribed and sworn to before me, this _____ day of _____, 19—. My commission expires _____, 19—.

(Seal)

_____, Notary Public.

Second—A statement, duly sworn to by the principal officer or agent in Missouri, setting forth the proportion of the capital stock which is represented by its property located and business transacted in Missouri; and designating a public office or place of business in this State for the transaction of its business where legal service may be obtained upon it, as follows:

State of Missouri, }
County of _____, } ss.

_____, of lawful age, being duly sworn, upon his oath, states that he is the _____ (Principal Officer or Agent as the case may be) of _____, a corporation duly incorporated under the laws of the state of _____ on the _____ day of _____, 18—, for a term of _____ years, and represents said corporation in the State of Missouri; that the amount of capital stock of said corporation is _____ dollars; and the proportion of the capital stock of said corporation which is represented by the property located and business transacted in the State of Missouri is _____ dollars; and that the public office of said corporation or place for the transaction of its business in the State of Missouri is located at the city of _____, Missouri.

(Title of Officer or Agent.)

Subscribed and sworn to before me this _____ day of _____, 19—. My commission expires _____, 19—.

(Seal)

_____, Notary Public.

Third—Affidavit that said corporation is not in contravention of the laws of Missouri against pools, trusts and conspiracies, as follows:

State of Missouri, }
County of _____, } ss.

I, _____ (President, Secretary Treasurer or Director), do solemnly swear that I am the _____ of the corporation known and styled _____, duly incorporated under the laws of _____ on the _____ day of _____, 18—, and that I am duly authorized to represent

said corporation in the making of this affidavit. And I do further solemnly swear that the said ——— is not now, a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not entered into or become a member of or a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not issued and does not own any trust certificates, and for any corporation, agent, officer or employee, or for the directors or stockholders of any corporation, has not entered into and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination, or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any article; and that it has not made or entered into any arrangement, contract or agreement with any person, association of persons or corporation designed to lessen, or which tends to lessen, full and free competition in the importation, manufacture or sale of any article, product or commodity in this State, or under the terms of which it is proposed, stipulated, provided, agreed or understood that any particular or specified article, product or commodity shall be dealt in, sold or offered for sale in this State to the exclusion, in whole or in part, of any competing article, product or commodity.

(President, Secretary, Treasurer or Director.)

Subscribed and sworn to before me this ——— day of ———, 19—.

(Seal)

—————, Notary Public.

Fourth—And certified check payable to the order of State Treasurer, to cover the State tax and fees, estimated as follows: On a capital of \$50,000, or less, invested in Missouri, \$50.00; license, \$10.00, and fee for issuing certificate, \$1.50; total, \$61.50. For each \$10,000 capital so invested in excess of \$50,000, \$5.00 additional.

FORM FOR INCORPORATING FARMERS' MUTUAL FIRE AND LIGHTNING INSURANCE COMPANIES.

(Sec. 8079.)

Know all men by these presents:

That we, the undersigned citizens and residents of the county of ———, State of Missouri, desirous of forming a Farmers' Mutual Fire and Lightning Insurance company under the laws of Missouri, and more particularly under the provisions of section 8079, R. S. 1899, have adopted the following constitution and by-laws:

CONSTITUTION.

First—The name of this company shall be the ——— Farmers' Mutual Fire and Lightning Insurance Company.

Second—The chief office and place of business of this company shall be at ———, county of ———, State of Missouri.

Third—The business of this company shall be managed by a board of directors consisting of ——— members; and the names of those selected for the first year are ———, ———, ———.

(Here complete the constitution.)

BY-LAWS.

(Here insert the by-laws.)

In testimony whereof, we have hereunto set our hands this ____ day of ____, 19—.

NOTE.—Should be signed by all the members, and verified by the affidavit of the directors named. Tax, \$10.00, and fees for certificates, \$2.50.

FORM FOR INCORPORATING FARMERS' MUTUAL TORNADO, WINDSTORM
AND CYCLONE INSURANCE COMPANIES.

(Secs. 8080 and 8081.)

Know all men by these presents:

That we, the undersigned citizens and residents of the county of ____, State of Missouri, desirous of forming a Farmers' Mutual Tornado, Windstorm and Cyclone Insurance Company under the laws of Missouri, and more particularly under the provisions of sections 8080 and 8081, R. S. 1899, have adopted the following constitution and by-laws.

CONSTITUTION.

First—The name of this company shall be the ____ Farmers' Mutual Tornado, Windstorm and Cyclone Insurance Company.

Second—The chief office and place of business of this company shall be at ____, county of ____, State of Missouri.

Third—The business of this company shall be managed by a board of directors, consisting of ____ members; and the names of those selected for the first year are _____, _____, _____.

(Here complete the constitution.)

BY-LAWS.

(Here insert the by-laws.)

In testimony whereof, we have hereunto set our hands this ____ day of ____, 19—.

NOTE.—Should be signed by all the members, and verified by the affidavit of the directors named. Tax, \$10.00, and fees for certificates, \$2.50.

FORM FOR INCORPORATING FARMERS' MUTUAL HAIL INSURANCE COM-
PANIES.

(Secs. 8082 and 8083.)

Know all men by these presents:

That we, the undersigned, citizens and residents of the county of ____, State of Missouri, desirous of forming a Farmers' Mutual Hail Insurance Company under the laws of Missouri, and more particularly under the provisions of sections 8082 and 8083, R. S. 1899, have adopted the following constitution and by-laws:

CONSTITUTION.

First—The name of this company shall be the ____ Farmers' Mutual Hail Insurance Company.

Second—The chief office and place of business of this company shall be at ____, county of ____, State of Missouri.

Third—The business of this company shall be managed by a board of directors, consisting of ____ members; and the names of those selected for the first year are _____, _____, _____.

(Here complete the constitution.)

BY-LAWS.

(Here insert the by-laws.)

In testimony whereof, we have hereunto set our hands this ____ day of ____, 19--.

NOTE.—Should be signed by all the members, and verified by the affidavit of the directors named. Tax, \$10.00, and fees for certificates, \$2.50.

FORM FOR INCORPORATING TOWN MUTUAL FIRE, LIGHTHNING, TORNADO-
WINDSTORM OR CYCLONE INSURANCE COMPANIES.

(Secs. 8085 and 8087.)

Know all men by these presents:

That we, the undersigned, citizens and residents of the county of ____, in the State of Missouri, desirous of forming a Town Mutual Fire, Lightning, Windstorm, Tornado or Cyclone Insurance Company under the laws of Missouri, and more particularly under article XI, chapter 119, R. S. 1899, have adopted the following constitution and by-laws.

CONSTITUTION.

First—The name of this company shall be the Town Mutual Fire, Lightning, Windstorm, Tornado, or Cyclone Insurance Company of ____.

Second—The chief office and place of business of this company shall be at ____, in the county of ____, State of Missouri.

Third—The business of this company shall be managed by a board of directors, consisting of ____ members; and the names of those selected for the first year are ____, ____, ____.

(Here complete the constitution.)

BY-LAWS.

(Here insert the by-laws.)

In testimony whereof, we have hereunto set our hands this ____ day of ____, 19--.

(To be signed by all the members.)

State of Missouri, }
County of ____, } ss.

Before me, the undersigned Notary Public within and for the county of ____, personally appeared ____, who being by me severally sworn, on his oath each for himself, did say that he has been selected as a director of the Town Mutual ____; that the foregoing is a true and complete copy of the constitution and by-laws adopted by said company; and that, to his personal knowledge, said company has *bonu fide* contracts for insurance to aggregate one thousand dollars in premiums.

(To be signed by all the directors.)

Subscribed and sworn to before me this ____ day of ____, 19--.

(Seal)

____, Notary Public.

My commission expires ____.

INSTRUCTIONS: Care should be taken in the preparation of the Constitution and by-laws that they do not conflict with other provisions of the insurance law. The instrument should be signed by all of its members; but the affidavit must be signed only by all of its directors. The certificate of incorporation must be recorded in the office of the recorder of deeds in the county where the company is located and a copy of such recorded certificate must be filed with the Insurance Department. The State tax and fee for certificate of incorporation will be \$12.50, in check payable to the order of the State Treasurer, but should be inclosed with the papers to the Secretary of State.

FORM FOR THE RETIREMENT OF A FOREIGN CORPORATION.

(Sec. 1018.)

State of _____, }
County of _____, } ss.

_____ (President or Secretary of the _____, a corporation under the laws of the State of _____, duly authorized to do business in the State of Missouri, as evidenced by its certificate of authority issued by the Secretary of State on the _____ day of _____, 1—, being duly sworn, on his oath, says that the said _____ retired from business in the State of Missouri on the _____ day of _____, 19—.

Subscribed and sworn to before me this _____ day of _____, 19—.

_____, Notary Public.

NOTE.—Affidavit must be filed in the office of the Secretary of State. Fee for certified copy, \$1.25, if one is desired.

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